

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0557

IN THE MATTER OF
EAST BAY MUNICIPAL UTILITY DISTRICT
FREEPORT REGIONAL WATER AUTHORITY
FOLSOM SOUTH CANAL CONNECTION PROJECT
CLAY STATION ROAD TO JACK TONE ROAD
SACRAMENTO/SAN JOAQUIN COUNTY

This Complaint is issued to East Bay Municipal Utility District and Freeport Regional Water Authority (hereafter Dischargers) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, and CWC section 13323, which authorizes the Executive Officer to issue this Complaint. This Complaint is based on findings that the Dischargers violated the terms of the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity Order 99-08-DWQ (NPDES No. CAS000002)(Construction General Permit), the Conditional Waiver of Waste Discharge Requirements for the Freeport Regional Water Project, Resolution No. R5-2008-0070 (Conditional Waiver), and the Clean Water Act (CWA) section 401 Water Quality Certification for the Freeport Regional Water Project (Water Quality Certification).

The Executive Officer of the Central Valley Water Quality Control Board (Central Valley Water Board or Board) finds, with respect to the Dischargers' acts, or failure to act, the following:

Background

1. The Dischargers are the owners of the Folsom South Canal Connection Project, which is part of the Freeport Regional Water Project. The Folsom South Canal Connection Project is a linear construction project that consists of several project facility sites and two linear pipeline construction corridors, comprising approximately 34 miles of pipeline, in Sacramento and San Joaquin Counties. Project facilities include a 10-acre water intake facility site along the Sacramento River, an 80-acre water treatment facility site, a terminal weir facility located on the Folsom South Canal, a canal pumping plant near the end of the Folsom South Canal, and an aqueduct pumping plant and pre-treatment facility near the Mokelumne River and Camanche Reservoir. The overall project includes multiple creek crossings. The segment of the project at issue is the segment from Clay Station Road to Jack Tone Road in Sacramento and San Joaquin Counties.
2. On 19 August 1999, the State Water Resources Control Board adopted the Construction General Permit, which implements Waste Discharge Requirements for storm water discharges associated with construction activity.

3. The Construction General Permit requires that those who discharge storm water associated with construction activity to surface waters (a) file a Notice of Intent to obtain coverage under the Construction General Permit and (b) use best available technology economically achievable and best conventional control technology to reduce storm water pollution. The Construction General Permit also authorizes non-storm water discharges only where they do not cause or contribute to a violation of any water quality standard and are controlled through implementation of appropriate Best Management Practices (BMPs) for elimination or reduction of pollutants.
4. The CWC requires that dischargers obtain coverage under the Construction General Permit prior to commencing construction activities. East Bay Municipal Utility District obtained coverage under the Construction General Permit and was assigned WDID No. 5S39C351737 on 7 May 2008.
5. The Water Quality Certification program regulates dredge and fill activities that result in discharges to waters of the U.S. These projects require federal permits pursuant to CWA section 404. Section 401 of the CWA requires any applicant for a federal license or permit for activities that may result in discharge into waters of the U.S. to obtain a certification from the respective State that the project will meet water quality standards. On 26 April 2006, the Central Valley Water Board's Executive Officer issued a Water Quality Certification with WDID No. 5B39CR00109 to the Freeport Regional Water Authority for the Freeport Regional Water Project.
6. CWC section 13260(a) requires that any person discharging wastes or proposing to discharge wastes within the region that could affect the quality of waters of the State shall file a Report of Waste Discharge (RWD). East Bay Municipal Utility District submitted a RWD for the land discharge of extracted groundwater to support construction of the Folsom South Canal Connection Project. On 30 November 2007, the Central Valley Water Board's Executive Officer issued a Notice of Applicability for Resolution No. R5-2008-0070, Conditional Waiver of Waste Discharge Requirements for East Bay Municipal Utility District (WDID No. 5B39NC00158) to support construction of the Folsom South Canal Connection Project.

Permit Conditions

7. Additional Condition 2 of the Water Quality Certification states that:

Except for activities permitted by the U.S. Army Corps under §404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.

8. Additional condition 7 of the Water Quality Certification states that:

All areas disturbed by project activities shall be protected from washout and erosion.

9. The Construction General Permit states, in part, the following:

A. DISCHARGE PROHIBITIONS

3. *Storm water discharges shall not cause or threaten to cause pollution, contamination or nuisance.*

C. SPECIAL PROVISIONS FOR CONSTRUCTION ACTIVITY:

2. *All dischargers shall develop and implement a SWPPP in accordance with Section A: Storm Water Pollution Prevention Plan. The discharger shall implement controls to reduce pollutants in storm water discharges from their construction sites to the BAT/BCT performance standard.*
3. *Discharges of non-storm water are authorized only where they do not cause or contribute to a violation of any water quality standard and are controlled through implementation of appropriate BMPs for elimination or reduction of pollutants...*

SECTION A: STORM WATER POLLUTION PREVENTION PLAN

6. *At a minimum, the discharger/operator must implement an effective combination of erosion and sediment control on all disturbed areas during the rainy season.*

10. The Conditional Waiver states, in part, the following:

DISCHARGE PROHIBITIONS

1. *Discharge of extracted groundwater to surface waters or surface water drainage courses is prohibited*

3. *Bypass or overflow of extracted groundwater from any land application or disposal area is prohibited*

Violation Chronology

11. On 19 August 2008, Board staff inspected the segment of the Folsom South Canal Connection Project from Clay Station Road to Jack Tone Road. During the inspection, Board staff observed that grading had occurred within the creek channel at the Dry Creek crossing. Board staff noted that appropriate BMPs had not been installed at the entrance to the creek channel and that this area was not protected from washout and erosion. Board staff also noted that earthen material from the excavation work at the crossing had been placed in Dry Creek without proper in-stream diversions, and that this material could pass into surface waters. Board staff determined that this was a violation of Additional Conditions 2 and 7 of the Water Quality Certification and Special Provision C.2 of the Construction General Permit.

12. On 28 August 2008, Board staff issued a Notice of Violation for the violations observed during the 19 August 2008 inspection. A copy of this Notice of Violation, which includes photographs taken during the inspection, is included as Attachment A to this Complaint.
13. On 26 September 2008, the Dischargers responded to the 28 August 2008 Notice of Violation stating that they would immediately take action to bring the site into compliance.
14. On 24 October 2008, East Bay Municipal Utility District discovered that a discharge hose had been moved from a designated land discharge area to the nearby dry creek bed to allow a farmer's field to dry out for the planting of crops. East Bay Municipal Utility District's 14 November 2008 spill report stated that an estimated 2,700 to 4,500 gallons of extracted groundwater was pumped into the dry creek bed. This is a violation of the Conditional Waiver, Discharge Prohibitions 1 and 3. On 18 February 2009 a Notice of Violation was issued for the 24 October 2008 discharge. The Notice of Violation is included as Attachment B to this Complaint.
15. On 16 February 2009, Board staff reviewed a report of an unauthorized discharge of groundwater from a dewatering project to Goose Creek. The report states that approximately 25,500 gallons of extracted groundwater was pumped to a field that flowed into a ditch that discharges to Goose Creek. This is a violation of the Conditional Waiver, Discharge Prohibitions 1 and 3. On 9 April 2009 a Notice of Violation was issued for the violation. The Notice of Violation is included as Attachment C to this Complaint.
16. On 17 February 2009, Board staff inspected the segment of the pipeline project adjacent to Liberty Road. During the inspection, Board staff noted significant storm water management problems at several areas on the site. The project had uncovered stockpiles of dirt and lacked an effective combination of erosion and sediment control BMPs. In one area of the project, these storm water management problems led to a turbid storm water discharge into an unnamed channel. Board staff determined that this was a violation of Section A.6 and Discharge Prohibition A.3 of the Construction General Permit
17. On 19 February 2009 a Notice of Violation was issued for the violations observed during the 17 February 2009 inspection. A copy of this Notice of Violation, which includes photographs taken during the inspection, is included as Attachment D to this Complaint.
18. On 2 March 2009, the Dischargers responded to the 19 February 2009 Notice of Violation stating that they would immediately take action to bring the site into compliance.
19. On 4 May 2009, Board staff and California Department of Fish and Game staff inspected the segment of the project from Clay Station Road to Jack Tone Road in response to a complaint of non-storm water discharge into Dry Creek. Board staff observed significant rilling and erosion on the bank of Dry Creek and noted a significant amount of sediment

that had been deposited in the creek channel as a result of the erosion. The Dischargers reported that the discharge occurred on 26 April 2009 as a result of their contractor opening valves at the Coyote Creek and Dry Creek crossings to lower the water level in the pipeline for repair. The pipeline had been filled with extracted groundwater for pressure testing. Staff did not observe any significant erosion at Coyote Creek; however, there was considerable erosion at the Dry Creek location. Based on information provided by East Bay Municipal Utility District, 1.5 million gallons of extracted groundwater was discharged from the pipeline. The discharge was a violation of Additional Condition 2 of the Water Quality Certification; Discharge Prohibitions 1 and 3 of the Conditional Waiver; and Special Provision C.3 of the Construction General Permit. Board staff's 4 May 2009 inspection report, which includes photographs taken during the inspection, is included as Attachment E of this Complaint. California Department of Fish and Game staff found the Dry Creek discharge to be deleterious to aquatic life. Their memo regarding this discharge is included as Attachment F of this Complaint.

20. On 13 May 2009, the Discharger's contractor, SJ Lewis, submitted a letter in response to the 4 May 2009 inspection and site meeting. The letter stated that they recognized the employee error in turning on the valve at the Dry Creek crossing and that they had installed a lock on the valve to prevent future mistakes.

Regulatory Considerations

21. The *Water Quality Control Plan Central Valley Region—Sacramento River and San Joaquin River Basins, Fourth Edition* (hereafter Basin Plan), designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Resources Control Board.
22. Dry Creek, Coyote Creek, and Goose Creek are tributary to the Mokelumne River. The Basin Plan designates the beneficial uses of the Mokelumne River as municipal and domestic supply; agriculture; industry; recreation; warm and cold freshwater habitat; warm and cold fish migration; spawning; and wildlife habitat.
23. Issuance of this Administrative Civil Liability Complaint to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

Violations under CWC section 13385

24. Administrative civil liability may be imposed for violations of the Construction General Permit, the Water Quality Certification, and the Conditional Waiver, pursuant to CWC section 13385 which states, in part,

(a) Any person who violates any of the following shall be liable civilly in accordance with this section:

(1) Section 13375 or 13376

(2) Any waste discharge requirements or dredged and fill material permit.

(5) Any requirements of Sections 301, 302, 306, 307, 308, 318, or 405 of the Federal Water Pollution Control Act as amended.

(c) Civil liability may be imposed administratively by the State Board or a Regional Board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the... following:

(1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.

(2) Where there is discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

(e) In determining the amount of liability imposed under this section, the regional board, the state board, or the superior court, as the case may be, shall take into account the nature, circumstances, extent, and gravity of the violation, or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefits or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

25. The Dischargers violated Additional Conditions 2 and 7 of the Water Quality Certification by discharging sediment into Dry Creek and not protecting areas from washout and erosion. The Dischargers violated Prohibition A.3, Section A.6 and Special Provisions C.2 and C.3 of the Construction Storm Water General Permit by threatening to cause pollution in Dry Creek, for not having an effective combination of erosion and sediment control BMPs, for not having a SWPPP in accordance with Section A of the Construction General Permit, and for allowing a non-storm water discharge to enter the creek without appropriate BMPs.

26. The Conditional Waiver does not authorize discharges to surface waters, and therefore, any discharge to surface waters under this Conditional Waiver, such as the spills to surface waters described in Findings 14, 15 and 19, exceed the scope of the Conditional Waiver and are unpermitted discharges. Any discharge to surface waters that is not permitted is a violation of the Clean Water Act, section 301. CWC section 13385 authorizes the imposition of administrative civil liability for such violations.

27. **Maximum Civil Liability.** Pursuant to CWC section 13385, the Dischargers have accrued a maximum civil liability of \$15,302,000. The maximum liability is based on five days of violation plus the adjusted volume of discharges into Dry Creek, Coyote Creek, and Goose Creek. The table below shows the dates of violations and the volumes discharged in violation of at least one of the permits:

Date	Permit Violations	Surface Water Discharge			Daily Totals
		Gallons Discharged to Surface Waters	Adjusted Gallons [-1,000]	Adjusted gallons times \$10 per gallon	
19-Aug-08	\$10,000	--	--	\$0	\$10,000
24-Oct-08	\$10,000	2,700	1,700	\$17,000	\$27,000
16-Feb-09	\$10,000	25,500	24,500	\$245,000	\$255,000
17-Feb-09	\$10,000	--	--	\$0	\$10,000
26-Apr-09	\$10,000	1,500,000	1,499,000	\$14,990,000	\$15,000,000
Totals	\$50,000	1,528,200	1,525,200	\$15,252,000	\$15,302,000

28. **Minimum Civil Liability.** Pursuant to CWC section 13385(c), at a minimum, liability shall be assessed at a level that recovers the economic benefits derived from the acts that constitute the violation. The Dischargers gained an economic benefit by not installing appropriate BMPs in a timely manner and by allowing non-storm water to be discharged to surface waters. The economic benefit is estimated to be less than the assessed liability.

EAST BAY MUNICIPAL UTILITY DISTRICT AND FREEPORT REGIONAL WATER AUTHORITY ARE HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Central Valley Water Board charges the Dischargers with an administrative civil liability in the amount of **two hundred twelve thousand dollars (\$212,000)**. The amount of the proposed liability is based upon a review of the factors cited in California Water Code section 13385, as well as the State Water Resources Control Board’s Water Quality Enforcement Policy, and includes consideration of the economic benefit or savings resulting from the violations.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **7/8/9 October 2009**, unless the Dischargers do either of the following by **24 August 2009**:
 - a) Waive the hearing by completing the attached form (checking off the box next to item #4) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **two hundred twelve thousand dollars (\$212,000)**; or
 - b) Agree to enter into settlement discussions with the Central Valley Water Board and request that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and returning it to the Central Valley Water Board along with a letter describing the issues to be discussed.

3. If a hearing is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

Original signed by Joe Karkoski for
PAMELA C. CREEDON, Executive Officer

23 July 2009

Date

Attachment A: Notice of Violation issued on 28 August 2008
Attachment B: Notice of Violation issued on 18 February 2009
Attachment C: Notice of Violation issued on 9 April 2009
Attachment D: Notice of Violation issued on 19 February 2009
Attachment E: 4 May 2009 inspection report
Attachment F: California Department of Fish and Game memo

JAK: 22 July 2009

**WAIVER OF 90-DAY HEARING REQUIREMENT FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent The East Bay Municipal Utility District and Freeport Regional Water Authority (hereinafter "Dischargers") in connection with Administrative Civil Liability Complaint R5-2009-0557 (hereinafter the "Complaint");
2. I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served" with the Complaint;
3. I hereby waive any right the Dischargers may have to a hearing before the Central Valley Regional Water Quality Control Board (Central Valley Water Board) within ninety (90) days of service of the Complaint; and
4. **(Check here if the Dischargers will waive the hearing requirement and will pay the fine.)**
 - a. I certify that the Dischargers will remit payment for the proposed civil liability in the amount of **two hundred twelve thousand (\$212,000)** by check, which will contain a reference to "ACL Complaint R5 2009-0557" and will be made payable to the "State Water Pollution Cleanup and Abatement Account." Payment must be received by the Central Valley Water Board by **24 August 2009** or this matter will be placed on the Central Valley Water Board's agenda for adoption at the **7/8/9 October 2009** Central Valley Water Board meeting.
 - b. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period expires. Should the Central Valley Water Board receive new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. New information or comments include those submitted by personnel of the Central Valley Water Board who are not associated with the enforcement team's issuance of the Complaint.
 - c. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Dischargers to further enforcement, including additional civil liability.

-or-

5. **(Check here if the Dischargers will waive the 90-day hearing requirement, but will not pay at the current time. The Central Valley Water Board must receive information from the Dischargers indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted.)** I certify that the Dischargers will promptly engage the Central Valley Water Board staff in discussions to resolve the outstanding violation(s). By checking this box, the Dischargers are *not* waiving its right to a hearing on this matter. By checking this box, the Dischargers requests that the Central Valley Water Board delay the hearing so that the Dischargers and Central Valley Water Board staff can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. A hearing on the matter may be held before the Central Valley Water Board if these discussions do not resolve the liability proposed in the Complaint. The Dischargers agree that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed.
6. If a hearing on this matter is held, the Central Valley Water Board will consider whether to issue, reject, or modify the proposed Administrative Civil Liability Order, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability.

(Print Name and Title)

(Signature)

(Date)



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
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<http://www.waterboards.ca.gov/centralvalley>



Arnold
Schwarzenegger
Governor

28 August 2008

CERTIFIED MAIL
7006 0810 0002 9651 0070

Eric Mische
Freeport Regional Water Authority
2710 Gateway Oaks Drive, Suite 320S
Sacramento, CA 95833

NOTICE OF VIOLATION, CWA SECTION 401 WATER QUALITY CERTIFICATION, FREEPORT REGIONAL WATER PROJECT, WDID# 5B39CR00109, SACRAMENTO AND SAN JOAQUIN COUNTY

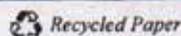
On 19 August 2008, Water Board staff inspected the Folsom South Canal Connection of your project. During the inspection, staff observed that grading had occurred within the creek channel of Dry Creek at a crossing on Clay Station Road in Sacramento County. Water Board staff noted that appropriate Best Management Practices had not been installed prior to entering the creek channel and that the area was not protected from washout and erosion. Water Board staff also noted that earthen material from the excavation work at the Dry Creek Crossing has been placed in the surface water drainage course and could pass into surface waters. Staff determined that this is a violation of the following conditions of your CWA Section 401 Water Quality Certification:

Additional condition 2 of your Water Quality Certification states, "Except for activities permitted by the U.S. Army Corps under §404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses." Additional Condition 7 requires that, "All areas disturbed by project activities shall be protected from washout and erosion."

Your project must also meet the requirements of the Construction Storm Water General Permit. The General Permit requires you to meet the Best Available Technology economically achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) standard to reduce or eliminate pollutant discharges from your site. Sediment is a pollutant.

During the 19 August 2008 inspection, Water Board staff observed tracking on the roadway in many areas along the pipeline project and inadequate and unmaintained construction entrances. Staff also observed that a rotary sweeper was being used to sweep the roadway and that the rotary sweeper was causing significant dust issues and was inadequate at cleaning the roadway. Rotary sweepers move the dirt to the side of the road where sediment can find its way into drainage courses. The BMPs currently employed to address sediment in the roadway at this site must be upgraded to meet the BAT/BCT standard.

California Environmental Protection Agency



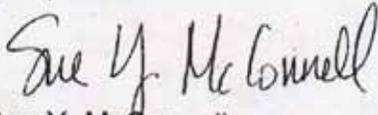
Response

In response to this Notice of Violation, you must immediately do the following:

- Install appropriate BMPs at the Dry Creek Crossing prior to continuing excavation activities. Ensure that all other crossings have appropriate BMPs installed.
- Address the tracking on the roadway throughout the Folsom South Canal Connection portion of the project; this includes the installation and maintenance of appropriate construction entrances as needed.
- Review and update the Storm Water Pollution Prevention Plans for Folsom South Canal Connection to ensure that adequate BMPs are used for this phase of the project as well as providing an implementation schedule for the upcoming wet weather season.
- Provide a copy of all Storm Water Pollution Prevention Plans for the Folsom South Canal Connection portion of the project to our office.

Violations of your CWA Section 401 Water Quality Certification have exposed Freeport Regional Water Authority to possible further enforcement action. Under Section 13385 of the CWC, the Regional Board can impose administrative civil liabilities for violations of any water quality certifications issued pursuant to CWC Section 13160. The maximum administrative civil liability for each day of violation is ten thousand dollars (\$10,000).

If you have any questions, please contact Jacque Kelley at (916) 464-4764 or Rich Muhl at (916) 464-4749.



Sue Y. McConnell
Chief, Storm Water Compliance and Enforcement Unit

Enclosures: Inspection report
Site photographs

cc: Phillip Kohne, East Bay Municipal Utility District, Clements
Robin Cort, Freeport Regional Water Authority, Sacramento ✓
Kerry Schmitz, Sacramento County Department of Water Resources, Sacramento
Archie Wright, Sacramento County Department of Water Resources, Sacramento



Figure 1: Overview of the Dry Creek Crossing



Figure 2: Silt fence installed within the creek channel



Figure 3: Area where the creek has been pot holed



Figure 4: Another view of the work area Note: the sediment along the sides of the construction project which has been deposited along the edges of the creek



Figure 5: Another view of the work area



Figure 6: Another view of a portion of the work area

8/19/08



Figure 7: Project area Note: the steep unstabilized slopes



Figure 8: Another view of a portion of the work area



Figure 9: Impacted creek bottom



Figure 1: Tracking on roadway Note: this was a closed roadway



Figure 2: Another view of the extensive sediment on the closed roadway



Figure 3: Tracking on an active roadway

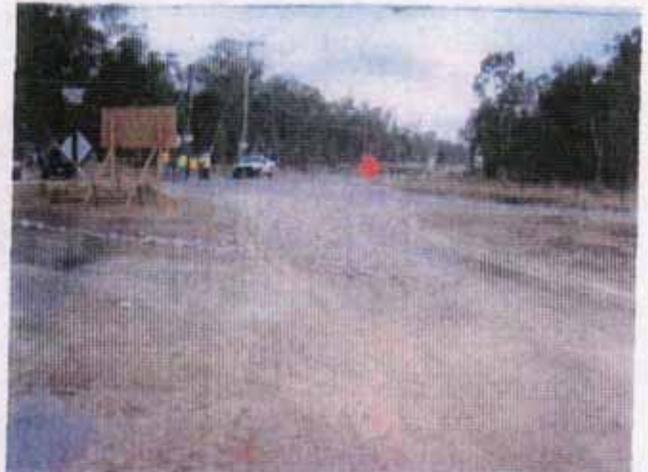


Figure 4: Poorly maintained and installed construction entrance



Figure 5: Another view of tracking on the roadway



Figure 6: Another view of the ineffective construction entrance

8/19/08



Figure 7: Sediment along the road shoulder which is contributing to sediment on the roadway



Figure 8: View of dust on the roadway caused by construction traffic



Figure 9: Rotary broom sweeper



Figure 10: Another view of the rotary broom sweeper



California Regional Water Quality Control Board
Central Valley Region

Karl E. Longley, ScD, P.E., Chair



Linda S. Adams
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Arnold
Schwarzenegger
Governor

18 February 2009

Kevin Canada
East Bay Municipal Utility District
24235 North Cord Road
Clements, CA 95227

NOTICE OF VIOLATION, UNAUTHORIZED RELEASE, EAST BAY MUNICIPAL UTILITY DISTRICT, SACRAMENTO COUNTY

Central Valley Water Board staff has reviewed a 14 November 2008 spill report that describes an unauthorized discharge of groundwater to a dry creek (Goose Creek). The report states that on 24 October 2008 that East Bay Municipal Utility District (Discharger) discovered that a discharge hose had been moved from a designated discharge area to the nearby dry creek bed. The report states that a farmer had directed his foreman to move the discharge hose to enable the field to dry out in order to plant the winter crop. The discharge was estimated between 2,700 and 4,500 gallons and was based on a flow rate of approximately 15 gallons per minute (gpm) for a period of three to five hours. The discharge was stopped after the Discharger's contractor shut off the dewatering well pumps.

East Bay Municipal Sewer District has violated Resolution No. R5-2008-0070 as follows:

- Prohibition No. 1 of the Resolution states: "*Discharge of extracted groundwater to surface waters or surface water drainage courses is prohibited.*"
- Prohibition No. 3 of the Resolution states: "*Bypass or overflow of extracted groundwater from any land application or disposal area is prohibited.*"

East Bay Municipal Sewer District is also in violation of General Reporting Requirements B.1 of the Standard Provisions and Reporting Requirements for not providing a timetable for corrective actions. A copy of the Standard Provisions and Reporting Requirements is enclosed. Therefore, by **1 April 2009**, please submit a revised written spill report that includes a timetable for corrective actions, and steps that East Bay Municipal Sewer District will take to prevent future spills.

Please be advised that failure to comply with the conditions of the Resolution could result in additional enforcement actions, including an Administrative Civil Liability (fines).

California Environmental Protection Agency

If you have any questions regarding this notice of violation, please contact Guy Childs at (916) 464-4648.



STEVE E. ROSENBAUM
Senior Engineering Geologist
Compliance and Enforcement
Title 27 and Non15 Programs

Enclosure: Standard Provisions and Reporting Requirements

cc w/o enc: Steve Kalvelage, Sacramento County Environmental Management Department,
Sacramento

CWIQS Violation ID Nos: ~~802409~~
863409

gjc: 18 Feb-09



Jinda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

GJK



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9 April 2009

Kevin Canada
East Bay Municipal Utility District
24235 North Cord Road
Clements, CA 95227

NOTICE OF VIOLATION, UNAUTHORIZED RELEASE, EAST BAY MUNICIPAL UTILITY DISTRICT, SACRAMENTO COUNTY

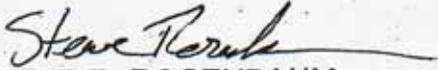
Central Valley Water Board staff has reviewed a 16 February 2009 East Bay Municipal Utility District (Discharger) report of an unauthorized discharge of groundwater from a dewatering project to Goose Creek. The Discharger states that the unauthorized discharge was estimated at approximately 25,500 gallons. The spill occurred when groundwater that was being discharged onto a field flowed into a drainage ditch. The ditch had been constructed around the perimeter of the field to drain storm water runoff into the creek. The spill to creek was stopped after the dewatering well pumps were shut off and an earthen dyke was constructed. The Discharger stated that prior to any further discharges to the fields; their contractor would be required to submit written plans as to the volume of the discharge, the location of the discharge hoses, and the method for preventing any discharges to surface waters.

East Bay Municipal Sewer District has violated Resolution No. R5-2008-0070 as follows:

- Prohibition No. 1 of the Resolution states: *"Discharge of extracted groundwater to surface waters or surface water drainage courses is prohibited."*
- Prohibition No. 3 of the Resolution states: *"Bypass or overflow of extracted groundwater from any land application or disposal area is prohibited."*

By **1 June 2009** please provide a copy of the written plans as described above to ensure that future unauthorized discharges do not occur. Please be advised that failure to comply with the conditions of the Resolution could result in additional enforcement actions, including an Administrative Civil Liability (fines). Water Board staff is evaluating whether additional enforcement is necessary at this time.

If you have any questions regarding this notice of violation, please contact Guy Childs at (916) 464-4648.



STEVE E. ROSENBAUM
Senior Engineering Geologist
Compliance and Enforcement
Title 27 and Non15 Programs

cc: Lisa Todd, Sacramento County Environmental Management, Sacramento

CWQS Violation ID No: 812287

gjc: 9 Apr-09



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>



Arnold
Schwarzenegger
Governor

19 February 2009

Mr. Phillip Kohne
East Bay Municipal Utility District
Post Office Box 610
Clements, CA 95227

CERTIFIED MAIL
7008 1140 0002 8805 9474

NOTICE OF VIOLATION, CONSTRUCTION STORM WATER GENERAL PERMIT NO. CAS000002, EAST BAY MUNICIPAL UTILITY DISTRICT, WDID NO. 5S39C351737, SAN JOAQUIN COUNTY

On 17 February 2009, Central Valley Water Board staff inspected the SJ Louis portion of the pipeline project to evaluate compliance with the NPDES General Permit for Storm Water Discharges Associated with Construction Activities, NPDES No. CAS000002, Order No. 99-08-DWQ (General Permit). East Bay MUD is responsible for complying with the General Permit for this project.

During the inspection, Water Board staff noted significant storm water management issues at several areas on the site. The project had uncovered stockpiles of dirt and lacked an effective combination of erosion and sediment control BMPs. In one area along Liberty these significant storm water management problems lead to a turbid storm water discharge into an unnamed creek channel.

East Bay MUD is in violation of Section A.6 of the General Permit which requires that, "At a minimum, the discharger/operator must implement an effective combination of erosion and sediment control on all disturbed areas during the rainy season." It is the rainy season, and your construction site does not have an effective combination of erosion and sediment control BMPs (see inspection photographs).

The discharge of sediment-laden water from your site is a violation of Discharge Prohibition A.3 of the General Permit, which states, "Storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance." Sediment-laden storm water from your construction site threatened to cause a condition of pollution and/or nuisance in surface waters, therefore, is a violation of Prohibition A. 3 (see photographs 4, 10 and 11).

Response

In response to this Notice of Violation, East Bay MUD must immediately do the following:

- Immediately install and maintain BMPs throughout the project
- Ensure that all BMPs installed on the construction site meet the Best Conventional Pollutant Control Technology/ Best Available Technology Economically Achievable (BAT/ BCT) standard required by the General Permit.

California Environmental Protection Agency

In order to demonstrate compliance with the General Permit, we request that East Bay MUD submit the following to the Regional Board by **2 March 2009**:

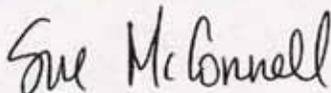
- A written explanation of how the BMPs will be installed and maintained throughout the construction site.
- All written inspection reports from 10/15/08 to present
- An updated SWPPP map showing all of the BMPs installed on the project.

Send the information to:

Attn: Richard Muhl
Central Valley Regional Water Board
11020 Sun Center Drive # 200
Rancho Cordova, CA 95670

This violation of the General Permit has exposed you to possible further enforcement action. Under Section 13385 of the CWC, the Regional Water Board can impose administrative civil liabilities for violations of CWC Section 13376. The maximum administrative civil liability for each day of violation is ten thousand dollars (\$10,000) and ten dollars per gallon of polluted storm water discharged in excess of 1,000 gallons.

If you have any questions contact Rich Muhl at (916) 464-4749.



SUE MCCONNELL
Chief, Storm Water Compliance and Enforcement Unit

Enclosures: Water Board Inspection report
Site photographs

cc w/out enc: Eugene Bromley, U.S. EPA, Region IX, San Francisco
Shawn Hart, County of San Joaquin, Stockton
David Kenney, EBMUD, Clements
Eric Mische, Freeport Regional Water Authority, Sacramento

Storm Water Construction General Permit Inspection Report Central Valley Regional Water Quality Control Board

Insp. Date & Time:	2/17/09	Inspected By:	R Muhl
WDID #	5S39C351737	Site County:	San Joaquin
Owner Name:	East Bay Mud Municipal District		
Site Name:	SJ Louis Construction Inc		
Site Address:	Folsom S Canal Connection Project		

Inspection Type: Compliance <input checked="" type="checkbox"/> Follow-up <input type="checkbox"/> Termination <input type="checkbox"/> Other (describe) <input type="checkbox"/>			
SWPPP on site?	Yes	Evidence of Erosion?	Yes
Photos Taken?	Yes	Evidence of Tracking?	Unknown
Weather: Rain		Evidence of Non-SW Discharge?	Unknown

Inspection Summary / Comments:

During the site inspection, staff observed significant storm water management problems. The site lacked an effective combination of erosion and sediment control BMPs and had unstabilized stockpiles of soil. Along Liberty Road, staff observed the discharge of turbid water from the construction site due to the lack of BMPs and unstabilized stockpiles (see inspection photographs).

Signature  Date <u>2/20/09</u>	Date Entered: _____ Entered By: _____ Senior Review: <u>R/M</u>
---	---



Figure 1 Unstabilized stockpiles directly adjacent to the rock roadway.



Figure 2: Location where storm water discharges under the roadway. Red line shows approximate location of culvert.



Figure 3: Another view of the turbid flow from the project.



Figure 4: Area where turbid flow from the project mixed with clean flow from the creek.



Figure 5: Another view of the turbidity. Note the unstabilized stockpile of dirt. The contractor stated that the BMPs sprayed on the stockpile failed.



Figure 6: Unstabilized area directly adjacent to the silt fence. Storm water appeared to have backed up into the work area.

2/17/09



Figure 7: Another view of the problem area. Note the clean water in the creek and the turbid storm water from the construction site.



Figure 8: Another view of poorly stabilized area.



Figure 9: Another view of the poorly stabilized construction site. Note the clear storm water in the creek channel.



Figure 10: Turbid storm water from the site mixing with clear water from the creek



Figure 11: Turbid storm water in the channel. Photograph is taken at the boundary of the project looking east

Storm Water Construction General Permit Inspection Report Central Valley Regional Water Quality Control Board

Insp. Date & Time:	5/04/09	Inspected By:	R Muhl
WDID #	5S39C351737	Site County:	San Joaquin
Owner Name:	East Bay Mud Municipal District		
Site Name:	SJ Louis Construction Inc		
Site Address:	Folsom S Canal Connection Project		

Inspection Type: Compliance <input checked="" type="checkbox"/> Follow-up <input type="checkbox"/> Termination <input type="checkbox"/> Other (describe) <input type="checkbox"/>			
SWPPP on site?	Yes	Evidence of Erosion?	Yes
Photos Taken?	Yes	Evidence of Tracking?	Unknown
Weather:	Cloudy	Evidence of Non-SW Discharge?	Unknown

Inspection Summary / Comments:

During the site inspection, staff investigated a significant discharge into Dry Creek. According to the preliminary reports an SJ Lewis employee opened a valve on a pipe that discharged water into Dry Creek. The discharge eroded a large portion of the bank adjacent to Dry Creek and deposited a great deal of sediment in the creek channel. This sediment appears to be migrating down the creek channel due to high flow conditions in the creek. At the time of the inspection the volume of water discharged was unknown however it was likely a large volume of water based on the amount of damage to the bank above the creek (see inspection photographs). Staff asked EBMUD to submit a report explaining what occurred, the volume of water discharged and an estimate of the estimated volume of sediment deposited in the channel. This report is due 11 May 2009 at 5:00 PM.

Staff also asked them to notify all of the agencies of the discharge. Depending on the flow in the creek at the time of clean-up and restoration work may extend outside the area permitted in the 1600/404/401.

Signature 	Date <u>5/6/09</u>	Date Entered: _____
		Entered By: _____
		Senior Review: <u>S/M</u>



Figure 1: Overview of the Dry Creek Crossing



Figure 2: View of one portion of the area that was impacted by the discharge



Figure 3: Another view of the discharge area



Figure 4: View of one portion of the area that was impacted by the discharge



Figure 5: Sediment deposited in the creek as a result of the discharge



Figure 6: View of the sediment that is migrating downstream as a result of the discharge

5/04/09



Figure 7: Another view of the discharge area



Figure 8: Another view of sediment in the creek



Figure 9: A portion of the washed out area Note: much of the surrounding area under the blanket was also washed away



Figure 10: Another view of the area that washed out as a result of the discharge



Figure 11: Another view of one portion of the impacted area



Figure 12: Close up of one of the areas where the discharge washed out the sediment from underneath the erosion control blanket

5/04/09



Figure 13: Another view of the discharge area

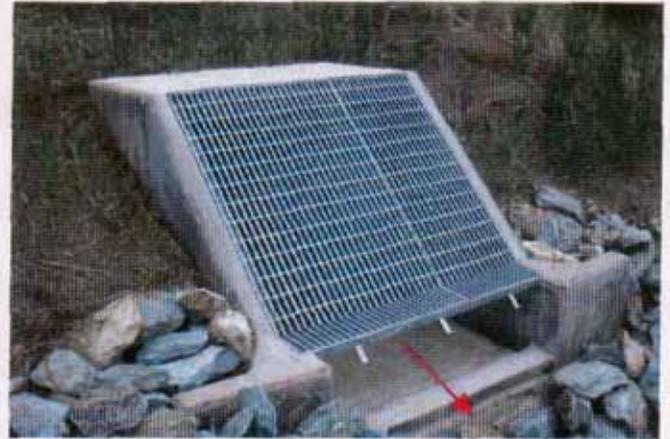


Figure 14: Source of the discharge



Figure 15: View of Dry Creek looking upstream at the discharge area.



Figure 16: View of the discharge area from the other side of Dry Creek



Figure 17: View of the discharge area from the other side of Dry Creek



Figure 18: View of the discharge area from the other side of Dry Creek

State of California
Department of Fish and Game

Memorandum

Date: 7/9/09

To: Richard Muhl
California Regional Water Quality Control Board
11020 Sun Center Dr., #200
Rancho Cordova, Ca 95670

From: Carol Oz, Staff Environmental Scientist
California Department of Fish and Game-Region 2
1701 Nimbus Road
Rancho Cordova, CA 95670

Carol Oz

Subject: Sediment Pollution in Dry Creek at the East Bay Municipal Utility District
Pipeline Project at the Dry Creek Crossing

On or around 4/30/09 I received information from you regarding a turbid water discharge incident in Dry Creek on Elliott Rd. in San Joaquin County. According to the information you provided, an SJ Lewis Construction company employee opened valves at the Dry Creek and Coyote Creek crossings to dewater a pipeline that they were pressure testing in order to repair a leaking valve. This high pressure water release caused significant erosion in the stream bank and considerable sediment discharge into Dry Creek.

On 5/22/09 I met with you at the site to inspect the East Bay Municipal Utility District project area at the Dry Creek and Coyote Creek Crossings. We observed a significant sediment release at the Dry Creek Crossing as a result of the pipe dewatering effort and resulting erosion on the bank of the creek. There was a large sediment deposit in the stream, just below the pipe discharge location. I took photographs with a digital Ricoh camera, and marked the discharge location using a Global Position System (GPS) handheld GPSmap 60CSx device (Photographs and Map attached). I measured the width and depth of the sediment where it entered the stream water. The sediment deposit was approximately 3 ft. deep (see photos attached) and 50 ft. by 45 ft. wide, extending the width of the creek (apprx. 45 ft. shore to shore). There was a large eroded rift in the south bank of the creek, approximately 12 ft. in length extending from near the discharge pipe location to the creek water line. I observed fish downstream of the sediment deposit, as well as insects and birds in this location.

DELETERIOUS EFFECT OF TURBIDITY AND SEDIMENTATION ON AQUATIC LIFE

Turbidity: Turbidity is a condition of water resulting from the presence of suspended particles (Welch, 1952), such as clay, silt, finely divided organic matter, bacteria, plankton, and other microscopic organisms. As an expression of the optical property of water, which causes light to be scattered and absorbed rather than transmitted in straight lines through the sample, turbidity is commonly measured optically with the use of a special light meter. Data is commonly reported in NTUs. It is natural to find silt and

sediment in water but problems result when excess amounts are introduced into the water. Excess amounts can harmfully affect water quality, an essential component of fish habitat. Excessive turbidity is deleterious to fish and aquatic resources in several ways. The most obvious effect is that it reduces light penetration into the water and, therefore, reduces photosynthesis by phytoplankton organisms, attached algae, and submersed vegetation which are essential for food chain development and support. Additionally, excessive turbidity may inhibit normal feeding behavior for sight feeders, such as trout and other freshwater species of fish and nanoplankton. Excessive turbidity can cause gill irritation, increase mucous secretion, and respiratory and physiologic distress. Death of fish and aquatic invertebrates exposed to "inert" particulates, which cause increased turbidity, is not usually the result of classic toxic response, but rather the effect of physical abrasion, gill clogging and ultimately suffocation. Natural weathered sediments tend to clog spaces between sensitive gill tissue, while un-weathered mineral solids, coat the actual gill filaments, and thus impede water contact and proper gas exchange, resulting in asphyxiation (Sherk, 1971).

Buck (1956) investigated several farm ponds, hatchery ponds, and reservoirs over a 2-year period in which he measured fish production. He observed that the maximum production of 161.7 lb/acre occurred in farm ponds when the average turbidity was less than 25 NTU; between 25 and 100 NTU fish yield dropped 41.7 percent to 94 lb/acre; and in muddy ponds, where turbidity exceeded 100 NTU, the yield was only 29.3 lb/acre or 18.2 percent of clear ponds.

Exposure to suspended particles can also dislodge insects and algal populations sufficiently to inhibit primary and secondary productivity to the detriment of the stream's carrying capacity (Iwamoto, 1978; Gammon, 1970). While a sand or mud bottom may provide limited habitat for burrowing invertebrates, burrowers are not as available to salmonids as are the preferred forms such as mayflies, caddisflies, and stoneflies that normally inhabit clean, gravel habitat.

Sedimentation: The deposition of sands, silts, or clays, around and on top of streambed rubble, reduces both the area upon which aquatic insects develop, as well as impairing the turbulence required for effective feeding (Phillips, 1971).

Other aquatic species can be equally and adversely affected by the deposition of fine particulates. Salamanders, amphibians, and a host of insect species can become physically entrapped, along with fish fry and incubating eggs, beneath cemented (fine sediments settle into gravel and tend to cement the gravel together) gravels and rocks (Branson and Batch, 1972).

Any barrier to migration and the free movement of the aquatic biota can be harmful. Planktonic organisms and aquatic invertebrates in flowing fresh water are important factors in the re-population of areas and the general economy of the water. Any barrier destroys this valuable source of food and creates unfavorable conditions below or above it (Federal Water Pollution Control Administration, 1968).

RESOURCES AT RISK

Dry Creek is a tributary to the Mokelumne River, which flows to the Sacramento-San Joaquin Delta. The State threatened Swainson's hawk (*Buteo swainsoni*) is documented in the location of this discharge (CNDDDB-BIOS, 2009). The creek system

in this location and subsequent downstream creeks it flows into would normally contain benthic macroinvertebrates (BMI), which are an important part of the food chain, especially for fish. Many invertebrates feed on algae and bacteria, which are on the lower end of the food chain. Some shred and eat leaves and other organic matter that enters the water. Because of their abundance and position in the aquatic food chain, they are critical in the natural flow of energy and nutrients in the ecosystem.

Downstream habitat includes the Sacramento/San Joaquin Delta. The Delta is an ecologically important area of the State. The Bay-Delta Estuary covers the confluence of the San Joaquin and Sacramento rivers, and Suisun, San Pablo, and San Francisco Bays through which the waters flow to the Pacific Ocean. The Bay-Delta Estuary includes wetlands and sloughs and is inhabited by a variety of fish and wildlife species. Over 200 fish species occur in the Sacramento-San Joaquin River system, the Delta, and the Bay--most of which are marine species. Over 40 fish species commonly occur within the Delta and upstream fresh-water environments. The Bay-Delta area contains some of the most varied natural terrestrial habitats and highest biodiversity anywhere in North America. In addition to biological importance, populations of plant and wildlife species are of great importance to the state's economy with respect to commercial and recreational interests (CALFED EIR/EIS).

Other sensitive species in downstream habitats from Dry Creek include the Giant Garter Snake (*Thamnophis gigas*) (state and federal listed threatened species); Western Pond Turtle (*Clemmys marmorata*) (state special concern species); valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), a federal listed threatened species; the (State and Federally listed as threatened) Central Valley Spring-Run Chinook salmon (*Oncorhynchus tshawytscha* [sr]); Federally threatened Steelhead (*Oncorhynchus mykiss*); and (State threatened) Central Valley Fall/Late-Fall Salmon (*Oncorhynchus tshawytscha* [fr]). (CALFED, 2000)

CONCLUSIONS

It is my opinion that the discharge of silt and sediment to this stream was deleterious to aquatic life. The force of the water discharge caused significant erosion and turbidity at the time of the release. A large amount of sediment from this discharge incident lodged in the stream, effectively smothering benthic organisms and creating a barrier to natural fish migration. The combined effects of prolonged turbid conditions in the stream at the time of discharge, and subsequent effects of sedimentation caused direct impacts on aquatic macroinvertebrates and fish, such as clogging and abrasion of the gills, reduced ability for sight-feeders to find food, and smothering and/or displacement of macroinvertebrates. Damage to this ecosystem, such as a reduction in available food supply, can have negative impacts to other wildlife higher on the food chain such as fish and the Swainson's hawk.

Corrective action is required to restore natural resources in Dry Creek. A cleanup and restoration plan should be provided to DFG. The restoration plan should include, at a minimum, removing anthropogenic sediment and restoring the stream and stream bank to its prior condition and function. The plan should be developed by a licensed engineer with biological expertise and experience in ecosystem restoration in the state of California. The engineer/consultant should work closely with the DFG to obtain guidance and approval of the plan. DFG shall be advised regarding all scheduled work in and around the pond and stream on the property, and no work shall be implemented

at the site until the plan is approved and DFG is notified prior. DFG will conduct post-cleanup and restoration work evaluation.

Attachments: Photographs and Site Map

cc: Kent Smith- DFG
Jaque Kelly-RWQCB
Sue McConnell-RWQCB

References:

- Berry, Rubinstein, Melzian and Hill. 2003. The Biological Effects of Suspended and Bedded Sediment (SABS) in Aquatic Systems: A Review (Internal Report). USEPA.
- Branson, B.A., and D.L. Batch. 1972. Effects of strip mining on small stream fishes in east-central Kentucky, USA. *Proc. Biol. Soc.*, Washington 84(50):507-517.
- Buck, D.H. 1956. Effects of turbidity on fish and fishing. Oklahoma Fisheries Research Laboratory, Report Number 56. Norman, Oklahoma, 62pp.
- CALFED Bay-Delta Program. 1999. Technical Reports for the Multi-Species Conservation Strategy. CALFED Bay-Delta Program, Final Programmatic EIS/EIR Technical Appendix. July 2000.
- CNDDDB. 2009. California Natural Diversity Database. CDFG BIOS webpage.
- Cole, Gerald A., *Textbook of Limnology*, 2nd Edition. 1975. C.V. Mosby Company, 11830 Westline Industrial Drive, St. Louis, Missouri 63141
- Federal Water Pollution Control Administration. 1968. Water Quality Criteria, Report of the National Technical Advisory Committee to the Secretary of the Interior. U.S. Government Printing Office, Washington, D.C., 20402
- Iwamoto, Robert N., Ernest O. Salo, Mary Ann Madej, R. Lynn McComas. 1978. Sediment and water quality: a review of the literature including a suggested approach for water quality criteria. EPA 910/9-78-048.
- Sherk, J.A., Jr. 1971. The effects of suspended and deposited sediments on the estuarine organisms, literature summary and research needs. *Nat. Res. Inst., Univ. Maryland, Chesapeake Biol. Lab., Control No. 443, Solomons, Maryland.* 73 pp.
- Phillips, R.W. 1071. Effects of sediment on the gravel environment and fish production. Pp. 64-74. In: J.T. Drygier and Hall (directors), *Proceedings of a symposium. Forest land used and stream environment.* October 19-21, 1970. Oregon State University, Corvallis, OR.
- Sherk, J.A., Jr. 1971. The effects of suspended and deposited sediments on the estuarine organisms, literature summary and research needs. *Nat. Res. Inst., Univ. Maryland, Chesapeake Biol. Lab., Control No. 443, Solomons, Maryland.* 73 pp.
- Till, B. and Trayler, K. 2000. Sediment in Streams *in Water Notes.* WN17. Water and

Rivers Commission, Western Australia.

Welch, P.S. 1952. Limnology, Second Edition, McGraw-Hill Book company, Inc. 538pp.



EBMUD Sediment

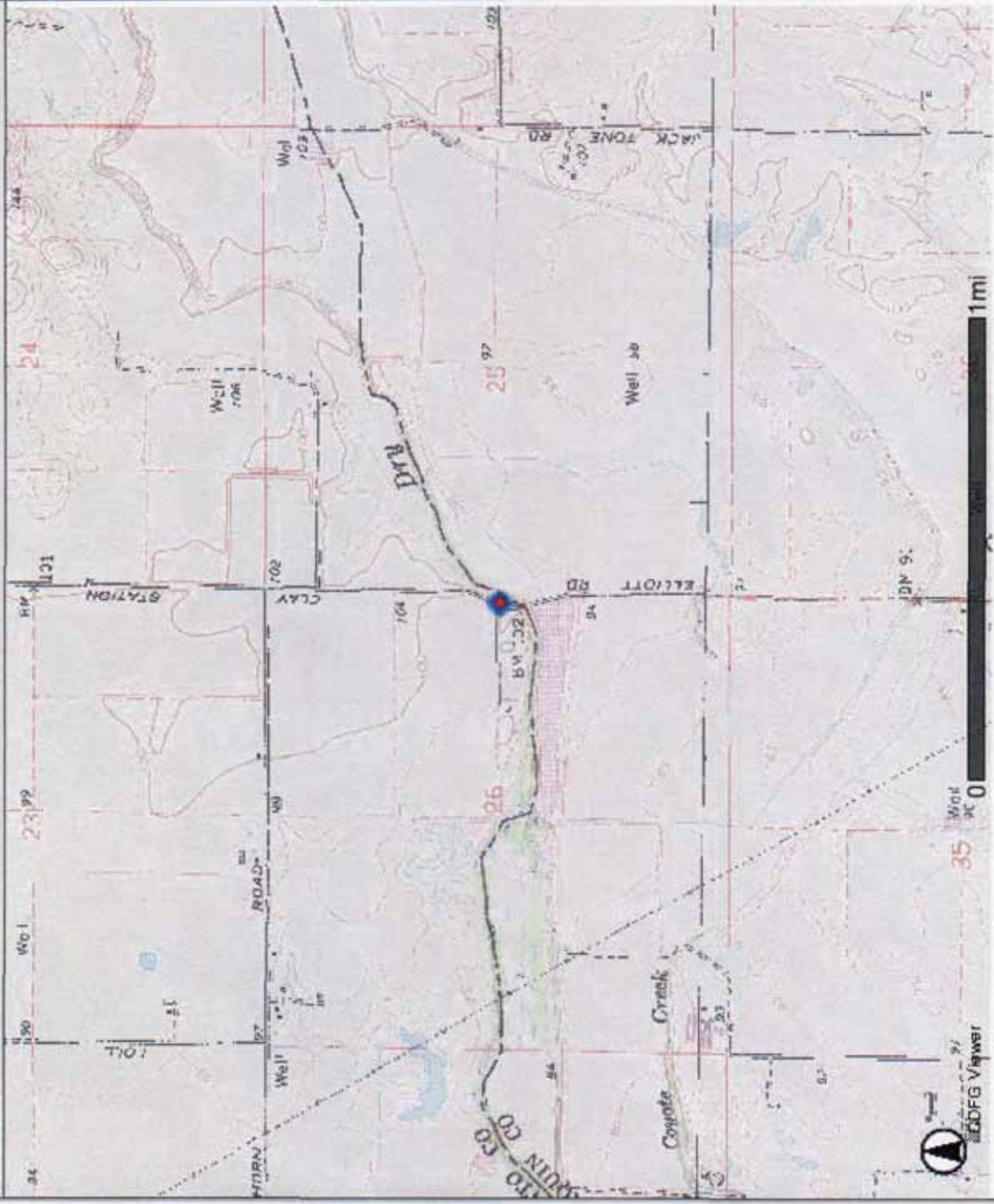
Dry Creek Coyote Cr

Author: C.OZ

Date: 7/8/2009 9:48 AM

Map Legend

- Western States
- Mexico



**Photographs Taken of EBMUD Dry Creek Sediment Release on
5/22/09 by C.Oz-DFG
(GPS Coordinate N38.25629 W121.17189)**



Photo #1: View of sediment release in Dry Creek looking north, standing on south bank where pipe discharge occurred.



Photo #2: Note probe sunk in sediment. Sediment depth was approximately 3 ft. deep and 40-50 in width and length.



Photo #3: Probe with 3 ft. measurement scale.

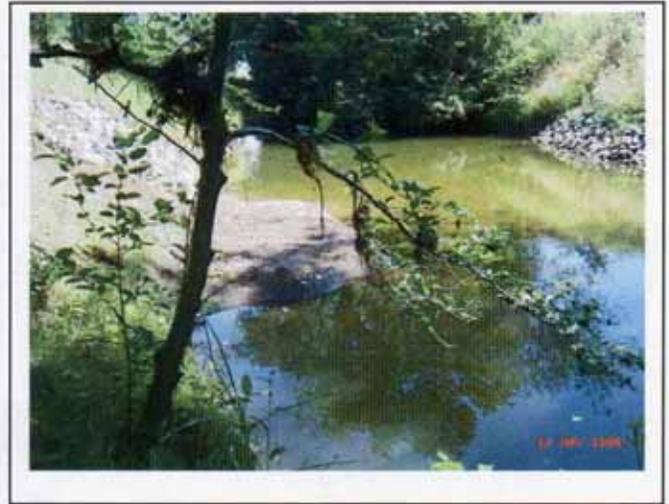


Photo #4: View of sediment release looking downstream. Sediment deposit extended across streambed.

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0557
CONSIDERATION OF FACTORS PURSUANT TO CWC SECTION 13385**

California Water Code (CWC) Section 13385 (e) states: *“In determining the amount of civil liability, the regional board...shall take into consideration the nature, circumstance, extent and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.”*

In preparing the Administrative Civil Liability Complaint, Central Valley Water Board staff considered the following:

Nature and Extent of Violations: East Bay Municipal Utility District and Freeport Regional Water Authority (Dischargers) are owners of the Folsom South Canal Connection Project. It is a linear construction project with several project facility sites and two linear pipeline construction corridors, comprising approximately 34 miles of pipeline, in Sacramento and San Joaquin Counties. Project facilities include a 10-acre water intake facility site along the Sacramento River, an 80-acre water treatment facility site, a terminal weir facility located on the Folsom South Canal, a canal pumping plant near the end of the Folsom South Canal, and an aqueduct pumping plant and pre-treatment facility near the Mokelumne River and Camanche Reservoir. The overall project includes multiple creek crossings. The segment of the project at issue is from Clay Station Road to Jack Tone Road in Sacramento and San Joaquin Counties.

The Dischargers violated Additional Conditions 2 and 7 of the Water Quality Certification by discharging sediment into Dry Creek and not protecting areas from washout and erosion. They violated Prohibition A.3, Section A.6 and Special Provisions C. 2 and C.3 of the Construction General Permit by threatening to cause pollution in Dry Creek, for not having an effective combination of erosion and sediment control BMPs, for not having an SWPPP in accordance with Section A of the Construction General Permit and for discharging a non-storm water discharges to surface waters without appropriate BMPs. They also violated Discharge Prohibitions 1 and 3 of the Conditional Waiver by discharging extracted groundwater to surface waters.

Circumstances: Board staff met the Dischargers and provided storm water training in September 2008 after the issuance of the first Notice of Violation (NOV) for this portion of the project. The Dischargers are well aware of the requirements of the Construction Storm Water Permit, Conditional Waiver, and the Water Quality Certification.

Gravity: The Discharger failed to comply with the Water Quality Certification, Conditional Waiver, and the Construction General Permit. The Dischargers discharged highly turbid water into Dry Creek, and discharged extracted groundwater into Dry Creek, Goose Creek, and Coyote Creek.

Toxicity: The degree of toxicity from the discharges is unknown. However, high concentrations of sediment can be toxic to aquatic life. California Department of Fish and Game inspected the

Dry Creek discharge and determined the discharge to be deleterious to aquatic life.

Susceptibility of the Discharge to Cleanup: Due to the circumstances of the discharges, it is not possible to clean up each one. However, for the 26 April 2009 discharge to Dry Creek, the East Bay Municipal Utility District's contractor will submit a cleanup plan, and the sediment deposited in the stream channel will be removed.

Degree of Culpability: East Bay Municipal Utility District obtained coverage under the Construction General Permit and was assigned WDID No. 5S39C351737 on 7 May 2008. On 26 April 2006, Freeport Regional Water Authority was issued a Water Quality Certification with WDID No. 5B39CR00109 for the Freeport Regional Water Project. On 30 November 2007, the Central Valley Water Board's Executive Officer issued Resolution No. R5-2008-0070, Conditional Waiver of Waste Discharge Requirements for East Bay Municipal Utility District with WDID No. 5B39NC00158 to allow land discharges in support of construction of the Folsom South Canal Connection Project. East Bay Municipal Utility District and Freeport Regional Water Authority are well aware of the regulatory requirements but failed to meet them at some locations along the linear project and creek crossings.

Degree of Cooperation: The Dischargers have generally cooperated with Board staff regarding storm water and water quality certification issues; however, there were on-going violations.

Prior History of Violations: Board staff has issued several NOVs for the Freeport Regional Water Project. Also, in March 2008, the Assistant Executive Officer issued a \$100,000 Administrative Civil Liability Complaint to Freeport Regional Water Authority for storm water violations on other segments of the project in Sacramento County.

Economic Benefit: The Dischargers gained an economic benefit by not installing appropriate BMPs in a timely manner and by allowing extracted groundwater to be discharged to Dry Creek, Coyote Creek and Goose Creek. The amount of economic benefit is estimated to be less than the assessed penalty.

Other Matters as Justice May Require

- a. **Staff Costs:** Board staff spent a total of 150 hours investigating this incident and preparing this Complaint. The total cost for staff time is \$22,500 based on a rate of \$150 per hour.
- b. **Ability of the Discharger to Pay:** Board staff is not aware of any reason why the Dischargers are unable to pay the liability. The overall cost of the Freeport Regional Water Project is over \$900 million dollars.

Central Valley Regional Water Quality Control Board

PROPOSED DRAFT HEARING PROCEDURE
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
R5-2009-0557

ISSUED TO
EAST BAY MUNICIPAL UTILITY DISTRICT
FREEPORT REGIONAL WATER AUTHORITY
CLAY STATION ROAD TO JACK TONE ROAD
SACRAMENTO/SAN JOAQUIN COUNTY

SCHEDULED FOR 7/8/9 OCTOBER 2009

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

The Executive Officer has issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code (CWC) section 13323 to the East Bay Municipal Utility District (EBMUD) and the Freeport Regional Water Authority (FRWA), alleging violations of CWC section 13385 by failing to comply with the terms of the General Permit for Storm Water Discharges Associated with Construction Activity, failing to abide by the terms of a federal Clean Water Act section 401 Permit, and by discharging waste to waters of the US in violation of the conditional Waiver of Waste Discharge Requirements, Resolution No. R5-2008-0070.

The Complaint proposes that an administrative civil liability in the amount of \$212,000 be imposed. A hearing is currently scheduled to be conducted before the Central Valley Water Board during its 7/8/9 October 2009 meeting.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Central Valley Water Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability. The public hearing on 7/8/9 October 2009 will commence at 8:30 a.m. or as soon thereafter as practical, or as announced in the Central Valley Water Board meeting agenda. The meeting will be held at:

11020 Sun Center Drive, Suite 200, Rancho Cordova, California.

An agenda for the meeting will be issued at least ten days before the meeting and posted on the Central Valley Water Board's web page at:

http://www.waterboards.ca.gov/centralvalley/board_info/meetings

Hearing Procedures

The hearing will be conducted in accordance with this Hearing Procedure. This proposed draft version of the Hearing Procedure has been prepared by the Prosecution Team, and is subject to revision and approval by the Central Valley Water Board's Advisory Team. A copy of the general procedures governing adjudicatory hearings before the Central Valley Water Board may be found at California Code of Regulations, title 23, section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Gov't Code § 11500) does not apply to this hearing.

THESE PROCEDURES HAVE BEEN PROPOSED BY THE CENTRAL VALLEY WATER BOARD'S PROSECUTION TEAM FOR USE IN THE ADJUDICATION OF THIS ADMINISTRATIVE CIVIL LIABILITY ACTION. THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM IN ITS DISCRETION. **ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE CENTRAL VALLEY WATER BOARD'S ADVISORY TEAM NO LATER THAN 3 AUGUST 2009, OR THEY WILL BE WAIVED.** THESE DRAFT HEARING PROCEDURES WILL BECOME FINAL AT 5:00 P.M. ON 3 AUGUST 2009 IF NO PARTY SUBMITS TIMELY OBJECTION(S), OR AS OTHERWISE DIRECTED BY THE ADVISORY TEAM. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). Both designated parties and interested persons may be asked to respond to clarifying questions from the Central Valley Water Board, staff or others, at the discretion of the Central Valley Water Board.

The following participants are hereby designated as parties in this proceeding:

1. Central Valley Water Board Prosecution Team
2. EBMUD
3. FRWA

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received no later than 5 p.m. on 10 August 2009 to Lori Okun (contact information listed below). The request shall include an explanation of the basis for status as a designated party (i.e., how the issues to be addressed in the hearing and the potential actions by the Central Valley Water Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be received by the Advisory Team, the person requesting party status, and all other parties by 5 p.m. on 17 August 2009. The parties will be notified by 5 p.m. on 24 August 2009 whether the request has been granted or denied.

Primary Contacts**Advisory Team:**

Ken Landau, Assistant Executive Officer
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Lori Okun, Senior Staff Counsel
State Water Resources Control Board, Office of Chief Counsel
1001 I Street
Sacramento, CA 95814
Phone: (916)341-5165; fax: (916) 341-5199
lokun@waterboards.ca.gov

Prosecution Team:

Pamela Creedon, Executive Officer
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Wendy Wyels, Environmental Program Manager
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670
Phone: (916)464-4835; fax: (916)464-4645
wwyels@waterboards.ca.gov

Patrick Pulupa, Staff Counsel
State Water Resources Control Board, Office of Chief Counsel
1001 I Street
Sacramento, CA 95814
Phone: (916)341-5189; fax: (916) 341-5199
ppulupa@waterboards.ca.gov

Dischargers Representatives:

Philip Kohne
East Bay Municipal Utility District
24235 N. Cord Road
Clements, CA 95227

Eric Mische
Freeport Regional Water Authority
2710 Gateway Oaks Drive, Suite 320S
Sacramento, CA 95833

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Central Valley Water Board (Prosecution Team) have been separated from those who will provide advice to the Central Valley Water Board (Advisory Team). Members of the Advisory Team are: Kenneth Landau, Assistant Executive Officer; and Lori Okun, Senior Staff Counsel. Members of the Prosecution Team are: Pamela Creedon, Executive Officer; Joe Karkoski, Acting Assistant Executive Officer; Wendy Wyels, Environmental Program Manager; Sue McConnell, Senior Water Resources Control Engineer; Jacque Kelley, Sanitary Engineering Associate; and Patrick Pulupa, Staff Counsel. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team have acted as advisors to the Central Valley Water Board in other, unrelated matters, but they are not advising the Central Valley Water Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Central Valley Water Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Central Valley Water Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested person on the one hand, and a Central Valley Water Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have a combined 25 minutes to present

evidence (including evidence presented by witnesses called by the designated party), cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than ten days after all of the evidence has been received. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Central Valley Water Board Chair (at the hearing) upon a showing that additional time is necessary.

Submission of Evidence and Policy Statements

The following information must be submitted in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Central Valley Water Board to consider. Evidence and exhibits already in the public files of the Central Valley Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with California Code of Regulations, title 23, section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

The evidence upon which the Complaint is based has been entered into the administrative file by time this Complaint is issued. However, the Prosecution Team may submit additional evidence into the administrative file until 5 p.m. on 27 August 2009. The Board's Advisory Team, all other Designated Parties, and all Interested Parties will be notified if additional evidence is added to the file, and will be provided with copies of the additional evidence. Should the Prosecution Team require witnesses to provide direct testimony at the Hearing, the Prosecution Team will provide the Board's Advisory Team, all other Designated Parties, and all Interested Parties with the information contained in items 3 and 4, above, by 5 p.m. on 27 August 2009.

The remaining designated parties shall submit 11 hard copies and one electronic copy of the information described in items 1 through 4 above to Ken Landau so that they are received no later than 5 p.m. on 8 September 2009. In addition to the foregoing, each designated party shall send (1) one copy of the above information to each of the other designated parties by 5 p.m. on the deadline specified above. The Designated Parties should submit all rebuttal evidence to Ken Landau no later than 5 p.m. on 17 September 2009, in order to allow all parties to consider all evidence prior to the hearing. "Rebuttal evidence" is limited to evidence that is offered to disprove or contradict evidence presented by an opposing party.

If the total amount of information submitted by any party is less than 15 pages, that party may submit the information by email, rather than in writing. In addition to the foregoing, each

designated party shall send (1) one copy of the above information to each of the other designated parties by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible. Interested persons do not need to submit written comments in order to speak at the hearing.

In accordance with California Code of Regulations, title 23, section 648.4, the Central Valley Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Central Valley Water Board may exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will not be considered by the Central Valley Water Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Central Valley Water Board office at 11020 Sun Center Drive, Suite 200 in Rancho Cordova. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Central Valley Water Board's Chair. Many of these documents are also posted on-line at:

<http://www.waterboards.ca.gov/centralvalley/>

Although the web page is updated regularly, to assure access to the latest information, you may contact Sue McConnell at (916) 464-4798 or Jacque Kelley at (916) 464-4764.

Questions

Questions concerning this proceeding may be addressed to Lori Okun at (916) 341-5165.

IMPORTANT DEADLINES

(Note: the Central Valley Water Board is required to provide a hearing within 90 days of issuance of the Complaint (CWC § 13323). The Advisory Team will generally adhere to this schedule unless the Dischargers submit waivers and they are accepted.)

23 July 2009	Prosecution Team issues ACL Complaint to Dischargers and Advisory Team, sends proposed Hearing Procedure to Dischargers and Advisory Team, and publishes Public Notice
3 August 2009	Objections due on proposed Hearing Procedure; Hearing Procedure becomes final if no Objections
10 August 2009	Deadline for submission of request for designated party status.
17 August 2009	Deadline for opposition to request for designated party status.
24 August 2009	Advisory Team issues decision on requests for designated party status, if any.
24 August 2009	Dischargers' deadline for submitting signed form to waive right to hearing within 90 days.
27 August 2009	Prosecution Team's deadline for submission of all information required under "Evidence and Policy Statements," above.
8 September 2009	Remaining Designated Parties' (including the Dischargers) Deadline for submission of all information required under "Evidence and Policy Statements," above.
17 September 2009	All Designated Parties' should submit all rebuttal evidence (if any) and evidentiary objections by this date.
7/8/9 October 2009	Hearing



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>



Arnold
Schwarzenegger
Governor

23 July 2009

CERTIFIED MAIL

7006 0810 0002 9651 0148

Eric Mische
Freeport Regional Water Authority
2710 Gateway Oaks Drive, Suite 320S
Sacramento, CA 95833

CERTIFIED MAIL

7006 0810 0002 9651 0155

Phillip Kohne
East Bay Municipal Utility District
24235 North Cord Road
Clements, CA 95227

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0557, EAST BAY MUNICIPAL UTILITY DISTRICT AND FREEPORT REGIONAL WATER AUTHORITY, FOLSOM SOUTH CANAL CONNECTION, SACRAMENTO AND SAN JOAQUIN COUNTIES

Enclosed is an Administrative Civil Liability Complaint (Complaint), issued pursuant to California Water Code (CWC) sections 13323 and 13385. The Complaint charges East Bay Municipal Utility District and Freeport Regional Water Authority (Dischargers) with civil liability in the amount of two hundred twelve thousand dollars (**\$212,000**) for violations of the NPDES General Permit for Storm Water Discharges Associated with Construction Activities, Order 99-08-DWQ (NPDES No. CAS000002); the Conditional Waiver of Waste Discharge Requirements for East Bay Municipal Utility District, Folsom South Canal Connection Project, Resolution R5-2008-0070; and Clean Water Act section 401 Water Quality Certification for the Freeport Regional Water Project.

Pursuant to CWC section 13323, the Dischargers may:

- Pay the assessed civil liability and waive their right to a hearing before the Central Valley Water Board by signing the enclosed waiver (checking off the box next to item #4) and submitting it to this office by **24 August 2009**, along with payment for the full amount;
- Agree to enter into settlement discussions with the Central Valley Water Board and request that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and submitting both the waiver and a letter describing the issues to be discussed to this office by **24 August 2009**; or
- Contest the Complaint and/or enter into settlement discussions with the Central Valley Water Board without signing the enclosed waiver.

The Board must receive waivers from both named Dischargers to effectuate waiver of the hearing date. If the Dischargers choose to sign waivers and pay the assessed civil liability, this will be considered a tentative settlement of the violations in the Complaint. This settlement will be considered final pending a 30-day comment period, starting from the date of this Complaint, during which time interested parties may comment on this proposed settlement by submitting

California Environmental Protection Agency

information to this office, attention Sue McConnell. Should the Central Valley Water Board receive new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement.

If the Central Valley Water Board does not receive a signed waiver by **24 August 2009**, then a hearing will be scheduled for **7/8/9 October 2009** Central Valley Water Board meeting in Rancho Cordova. The Central Valley Water Board's Prosecution Team has proposed the enclosed draft Hearing Procedures to govern the conduct of such a hearing. Any objections to these draft Hearing Procedures must be received by Lori Okun, whose contact information is listed in the enclosed draft Hearing procedures, by **5 p.m. on 3 August 2009**.

Any comments or evidence concerning the enclosed Complaint must be submitted in accordance with the deadlines contained in the enclosed draft Hearing Procedures, unless these deadlines are changed by the Central Valley Water Board's Adjudicatory Team, either on their own accord or upon request.

In order to conserve resources, this letter transmits paper copies of the documents to the Dischargers only. Interested persons may download the documents from the Central Valley Water Board's Internet website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders

Copies of these documents can also be obtained by contacting the Central Valley Water Board's office at 11020 Sun Center Drive, #200, Rancho Cordova, California 95670-6114, weekdays between 8:00 a.m. and 5:00 p.m.

For your information, we have attached a description of the factors that were considered, pursuant to California Water Code section 13385(e), in assessing this civil liability.

If you have any questions regarding the enclosed Complaint, please contact Jacque Kelley at (916) 464-4764 or Sue McConnell at (916) 464-4798.

WENDY WYELS
Environmental Program Manager
Compliance and Enforcement Section

Enc: Administrative Civil Liability Complaint R5-2009-0557
Hearing Waiver
CWC Factors Considered in Assessing Liability
Draft Hearing Procedures

cc: see next page

cc w/o encl: Mr. Eugene Bromley, U.S. EPA, Region IX, San Francisco

Mr. Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento
Ms. Lori Okun, Office of Chief Counsel, SWRCB, Sacramento
Ms. Emel Wadhvani, Office of Chief Counsel, SWRCB, Sacramento
Mr. Reed Sato, Enforcement Unit, SWRCB, Sacramento
Mr. Ken Landau, Central Valley Water Board, Rancho Cordova
Ms. Carol Oz, California Department of Fish and Game, Rancho Cordova
Mr. Patrick Halvorsen, Contractors State License Board, Sacramento
Ms. Kerry Schmidt, Sacramento County, Sacramento
Ms. Leilani Chua, San Joaquin County Public Works, Stockton
Mr. Bill Jennings, California Sport Fishing Protection Alliance, Stockton