
San Francisco Bay Regional Water Quality Control Board

*Certified Mail No.
Return Receipt Requested*

NOTICE OF VIOLATION

October 8, 2015

Mr. Reza Valiyee (rezavaliyee@gmail.com)
2253 Ward Street
Berkeley, CA 94705-1027

Subject: Notice of Violation for Unpermitted Placement of Fill in a Tributary to San Pablo Creek at 4500 Appian Way, El Sobrante, Contra Costa County

Dear Mr. Valiyee:

This letter is to inform you that you are in violation of California Water Code (CWC) Section 13264 and the San Francisco Bay Basin Water Quality Control Plan (Basin Plan). This Notice of Violation (NOV) is for the following activities:

- Failure to apply for and obtain a Clean Water Act (CWA) Section 401 water quality certification and/or Waste Discharge Requirements prior to the placement of illegal fill into a tributary to San Pablo Creek (Appian Creek), a water of the State, in violation of CWC Section 13264 and the Basin Plan.

The violation occurred at 4500 Appian Way in El Sobrante, APN #425-210-039. You are directed to take the following actions:

1. Remove the illegal culvert and soil fill material from State waters by October 23, 2015. No later than October 19, you shall file a Report of Waste Discharge to restore the impacted segment of Appian Creek, including the removal of all illegal fill and any accumulated sediment, and to mitigate the temporal impacts to the creek that resulted from the illegal activities.
2. Document, no later than October 31, 2015, with photographs and detailed narratives that the above corrective actions have been implemented at the site by October 23, 2015, and that effective erosion control measures have been applied to all disturbed areas within the bed and banks of the creek, and on any

adjacent land where stormwater runoff could convey sediment to the creek or other State waters.

3. Document, no later than January 15, 2016, that a CDFW-approved planting plan has been implemented at the site. A copy of the plan and photographs of the restored and planted creek bank shall be provided to the Water Board.

According to records acquired from the California Department of Fish & Wildlife (CDFW), a culvert and soil backfill were installed in Appian Creek without the necessary permits from the resource agencies, including the U.S. Army Corps of Engineers and the San Francisco Bay Regional Water Quality Control Board (Water Board). According to the June 8, 2015, CDFW Enforcement Inspection Report for Sections 1600-1606, you were required to submit an engineering plan for removal of the culvert to Contra Costa County and CDFW by July 20, 2015. You were also required to obtain a Contra Costa County 1010 permit from the Public Works Department, and obtain a grading permit if more than 200 cubic yards of soil would be spread on the adjacent land. The CDFW report required removal of the culvert and restoration of the creek (including seeding and implementation of erosion control measures) by October 1, 2015. The banks of the creek are to be replanted by December 31, 2015, with a CDFW approved planting plan. To date we understand that these actions have not been completed.

The CWC and the Basin Plan contain prohibitions of the unauthorized discharge of silt, sand, clay, or other earthen materials that threaten to affect the beneficial uses of waters of the State. The placement of fill material in waters of the United States requires permit authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of the federal Clean Water Act (CWA) and water quality certification from the Water Board pursuant to CWA section 401. The discharge of waste, including fill, into waters of the State requires Waste Discharge Requirements from the Water Board. The creek at the site is both a water of the State and a water of the United States. You have not received, nor applied for, water quality certification nor Waste Discharge Requirements for the work at the site.

Failure to submit a Report of Waste Discharge and obtain Waste Discharge Requirements constitutes a violation of the CWC Sections 13260 and 13264. You must take all appropriate actions to remove placed fill, restore the creek, and prevent or minimize the discharge of sediment into the creek.

We urge you to submit the information required above and to come into compliance with the CWC as quickly as possible.

Pursuant to CWC Section 13265, the placement of fill in waters of the State without a permit may result in fines of \$1,000 per day. The Water Board also reserves the right to take any enforcement action authorized by law.

Please be aware that the requirement for plans and reports in this Notice of Violation constitute a formal requirement for technical reports pursuant to CWC Section 13267. While we expect your cooperation, failure to respond, or late responses, may result in the imposition of civil liability of up to \$5,000 per day for each required report, pursuant

to CWC Section 13268. Any extensions of the time deadlines set forth above must be confirmed in writing by Water Board staff.

If you have any questions, please contact Katie Hart at 510-622-2356 or via e-mail to khart@waterboards.ca.gov.

Sincerely,

for Bruce H. Wolfe
Executive Officer

Enclosures: CDFW Enforcement Inspection Report for Sections 1600-1606, and, Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code

cc:

Bill Orme, State Board, Stateboard401@waterboards.ca.gov

Katerina Galacatos, Corps, San Francisco District, Katerina.galacatos@usace.army.mil

Nicole Kozicki, CDFW, Nicole.Kozicki@wildlife.ca.gov

Robert Stanley, California Department of Fish & Wildlife, robert.stanley@wildlife.ca.gov

Mario Consolacion, Contra Costa County, Mario.consolacion@pw.cccounty.us

Masood, mesma26@yahoo.com

NOTIFICATION #: _____
 THP #: _____
 INSPECTION BY: _____
 DATE: _____ FINAL INTERIM
 OPERATOR: _____

ENFORCEMENT INSPECTION REPORT FOR SECTIONS 1600-1606

NAME OF STREAM/LAKE: _____ COUNTY: _____

BRIEF PROJECT DESCRIPTION: _____

DESCRIPTIVE REPORT SECTION (Circle the number that is most appropriate)

(Rating "1" = In Compliance; Rating "2" = Remedial Action/Work Needed; Rating "3" = Legal Action)

EVALUATION CRITERIA:

TYPE	(Note Condition Numbers from Permit)				COMMENTS
SILTATION	()	1	2	3	_____
VEGETATION	()	1	2	3	_____
FISH PASSAGE	()	1	2	3	_____
FISH HABITAT	()	1	2	3	_____
LITTER/DEBRIS	()	1	2	3	_____
GRAVEL DISTURBANCE	()	1	2	3	_____
TURBIDITY	()	1	2	3	_____
OTHER (Specify)	()	1	2	3	_____

IS THE PROJECT IN COMPLIANCE WITH THE PERMITTED PROJECT DESCRIPTION? YES NO (Explain below)

CASE HISTORY:

NOTIFICATION FILED WITH DFG: YES NO (AFTER THE FACT Date: _____) INITIAL FIELD INSPECTION BY: _____
 AGREEMENT AND OPERATION DISCUSSED PRIOR TO OPERATION: () YES () NO REGIONAL REVIEW BY: _____
 COMPLAINT(S) FILED AGAINST OPERATOR: () YES () NO (As indicated below): REPORT/FORMAL COMPLAINT REVIEWED BY: _____
 () 1600-1606 FAILURE TO NOTIFY. () 5652 LITTER. REGIONAL REVIEW (If needed) BY: _____
 () 1600-1606 FAILURE TO OBSERVE AGREEMENT. () 5984 STREAM OBSTRUCTION. DEPUTY DISTRICT ATTORNEY: _____
 () 5650 POLLUTION. () OTHER: _____ () CIVIL () CRIMINAL CASE#: _____

REMEDIAL ACTION/COMMENTS:

SPECIFIED REMEDIAL MEASURES SHALL BE COMPLETED BY: _____
PERMITTEE/OPERATOR ACKNOWLEDGES AND AGREES TO COMPLETE THE SPECIFIED REMEDIAL ACTION:
 PERMITTEE: _____ DATE: _____
 OFFICER: _____ DATE: _____
 REMEDIAL ACTION COMPLETION CONFIRMED BY: _____ DATE: _____