

# San Francisco Bay Conservation and Development Commission

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## Agenda Item 5

March 10, 2020

**TO:** Enforcement Committee Members

**FROM:** Priscilla Njuguna, Enforcement Policy Manager ([priscilla.njuguna@bcdc.ca.gov](mailto:priscilla.njuguna@bcdc.ca.gov))

**SUBJECT:** Enforcement Report

(For March 12, 2020)

### Summary

This report summarizes the 2019 case resolution achievements and actions undertaken by BCD C staff since the last Committee meeting held on December 12, 2019, and the resulting case resolution rate statistics.

During 2019, staff closed forty-eight cases, opened seventy-one cases, issued six enforcement related permits and/or permit amendments, and issued one cease and desist order. In fiscal year 2019 the Commission collected \$191,383 in civil penalties. The largest sums were \$75,000 from the WestPoint Harbor (a settlement agreement entered into in 2018) and \$72,483, the final payment from Scott's Jack London Seafood, Inc. (a cease and desist and civil penalty order).

### Enforcement Definitions

**Caseload** means the sum of all cases as of December 31 of the previous calendar year plus the cases opened in the present calendar year minus all cases closed as of the last date in the month(s) prior to the report.

**Active cases** mean the cases actively being pursued.

**Pending cases** mean cases within the case management process that have not yet got to the resolution milestone. These milestones are defined to include assignment, investigation, negotiation. Cases are pending for various reasons including but not limited to pending permit applications, pending monitoring reports, pending site remediation, pending enforcement cases/permits with other state and local government agencies, etc.

**Old cases** mean all cases opened in 2016 or earlier, before the Enforcement Committee began meeting and hearing cases more regularly, and that have been previously defined as the

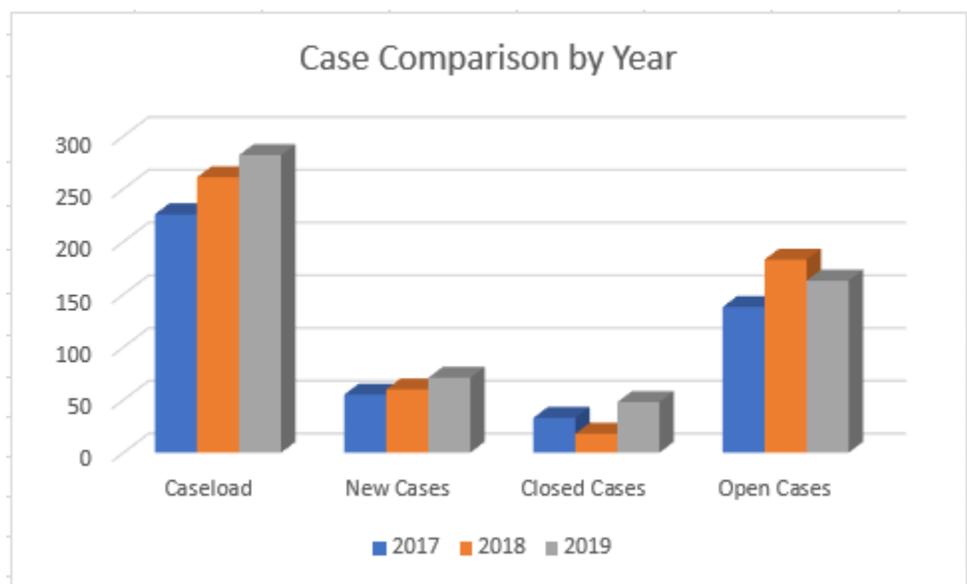


backlog. The oldest cases are a subset of old cases and this term is used to describe cases opened in 2000 or before.

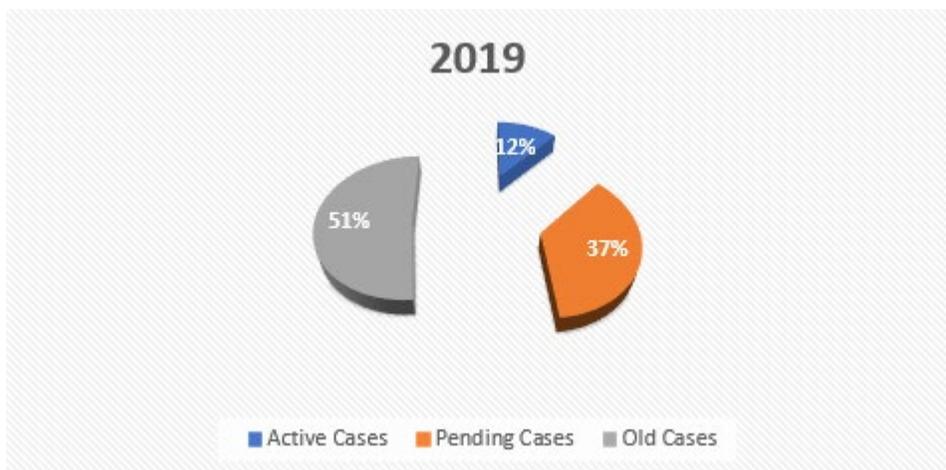
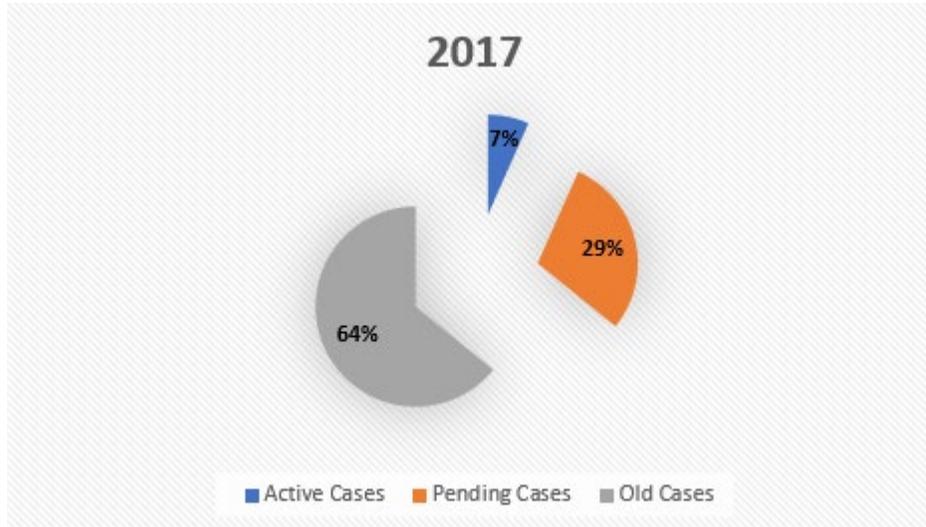
**Closed cases** mean all cases that have been resolved. Cases are resolved for various reasons including but not limited to no violation was found, BCDC reached a settlement with the violator, orders were issued, or judgments were rendered after litigation.

**Actions taken**

Year	Caseload	New Cases	Closed Cases	Open Cases
2017	226	55	33	138
2018	261	60	18	183
2019	282	71	48	163



Year	Caseload	Active Cases	Pending Cases	Old Cases
2017	226	15	66	145
2018	261	32	84	145
2019	282	34	103	145



1. The caseload at the end of 2019 was 282 –a 21 (8%) case increase from the 261 caseload at the end of 2018. There were 71 cases opened in 2019 –an 11 case increase from the new cases opened in 2018.
2. There were 48 cases closed in 2019. Of these 18 (37.5%) were old cases opened in 2016 or earlier. This is a 12 case increase in oldest case resolution compared to the 6 oldest cases resolved in 2018. The oldest closed cases include 4 cases opened in 2000 or before. Fourteen (29%) of the cases were closed without any violation having been found.
3. The sum of civil penalties and standardized fines collected in fiscal year 2019 was \$191,383 compared to \$289,584 received in fiscal year 2018 a 34% decrease over recoveries in fiscal year 2018.
4. In working to improve case resolution timeframes, as previously reported to the Enforcement Committee in December 2019, BCDC is implementing the practice of issuing an Initial Contact Violation Notice letter once a case is opened. The letter is intended to put violators on notice of the violations that have been reported and determined to be credible and to encourage violators to resolve enforcement cases at the earliest opportunity. The letters inform violators of the nature of the report and encourage them to contact BCDC staff to discuss the next steps that can stimulate case resolution. This letter is intended to assist in both preventing case stagnation and building efficiencies within the case review process. The anticipated response within 15 days for the first letter mailed was received after 12 days. This pilot is expected to continue through the end of March 2020 with adjustments to letter content, response timeframes, and defining next steps to assure long term effectiveness.
5. New procedures were drafted to document existing procedures and integrate procedural changes. The drafts have been provided to staff for use as changes deemed effective are implemented. Pursuant to procedural changes, to enhance case review some cases have been grouped and paired by violator for resolution and a pilot of new case status code descriptions is underway. Adjustments will be made to the procedures based on their effectiveness.
6. The 41 active cases include the 7 oldest cases which will be discussed individually in a separate presentation the Committee.
7. The Committee will hold a public hearing and possibly vote on a recommended enforcement decision, including the adoption of proposed Cease and Desist Order No. CCD2020.001.00 that would be issued by the Commission to the City of Oakland to remedy alleged violations involving encampments and other unauthorized activities that are interfering with public uses of Union Point Park. The Order is scheduled for subsequent presentation to the full Commission in April or May 2020.

8. The Committee will receive a detailed briefing from the Commission's Chief Deputy Director, Steve Goldbeck, regarding the legislation that may be pursued to improve the enforcement program.

#### Future Agenda Items

9. The Committee will receive updates on the Management of Vessels in Richardson's Bay from staff, the Richardson's Bay Regional Agency and the City of Sausalito in March 2020. These briefings will enable the Committee to decide whether the parties have met the requirements of the enforcement letter mailed December 3, 2019, that included a deadline of March 31, 2020, for a defined plan, with timelines, for the transition of all vessels off Richardson's Bay waters, and progress on ongoing documented abatement of derelict vessels and mitigations of impacts to the natural habitat.