

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190

State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

Commission Cease and Desist Order: CCD2020.002.00

Effective Date: [To be determined following Commission action]

Respondent: Param and Amandeep Dhillon
2225 Ralmar Avenue
East Palo Alto, CA 94303

To Param and Amandeep Dhillon:

- I. Cease and Desist Order.** Pursuant to California Government Code Section 66638, Respondents Param and Amandeep Dhillon are hereby ordered to:
- A. Cease and desist from violating the White Slough Protection and Development Act.
 - B. Prepare a report setting forth the extent of fill and grading actions undertaken in the East Lagoon portion of APN 0052-160-090 in November and December of 2019 and detailing the actions needed to restore the property.
 - C. Undertake all corrective actions required to restore East Lagoon.
 - D. Fully comply with the Requirements of Sections III and IV of this Cease and Desist Order (“Order”).

II. Findings

This order is based on the findings set forth below. The administrative record in support of these findings includes the documents cited herein and all additional documents cited in the Index of Administrative Record attached hereto.

Legal findings

- A. In late 1976-1977, after storms and other natural forces caused levees along the Napa River to breach, the area of White Slough, including East Lagoon, became subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission (“BCDC”). Recognizing the value of the area, in 1990, the Legislature enacted the White Slough Protection and Development Act (“Act”), Government Code sections 66670-66682. Pursuant to the Act, the City of Vallejo and County of Solano, working with BCDC and other agencies, finalized the White Slough Specific Area Plan (“Plan”). The Plan requires the permanent protection of areas in South White Slough, including the area defined as East Lagoon which includes five acres of brackish and mixed wetland habitat, with the zoning of this area as Resource Conservation, providing maximum protection. East Lagoon comprises five acres of the approximately eight-acre parcel listed as Assessor Parcel No. 0052-160-090 by the County of Solano.



- B. The western portion of East Lagoon is muted-tidal marsh and has soils and vegetation indicating that there are jurisdictional wetlands and this property. In accordance with the White Slough Specific Area Plan, East Lagoon is designated as natural open space by the City of Vallejo due to the environmentally sensitive nature of the land. The area has also historically been subject to seasonal flooding that can extend well into the Spring. Photos taken during a site visit by BCDC staff on December 17, 2019 show the extent of flooding that can occur in the southwest area.
- C. The White Slough Protection and Development Act, Government Code Section 66681(b), requires anyone who wishes to place fill in, or make any substantial change in use of any area within White Slough, including East Lagoon, to first obtain a permit from BCDC in addition to any other permit required by law.

Factual Findings

- A. At a public auction conducted on June 11-12, 2019, Respondents purchased Assessor Parcel No. 0052-160-090 (“property”).

On October 23, 2019, BCDC received a report regarding the creation of a dirt road and trucks entering the property from Highway 29 and placing fill. The reporter stated that the activities had been ongoing for several weeks. Several days later, on November 1, 2019, BCDC received a report that someone was sending dump trucks full of dirt to the area, and three days later, on November 4, 2019, BCDC received two additional reports of a truck dumping dirt onto the property. Some of these reports described the property as White Slough, and one of the reports was accompanied by photographs showing several large piles of dirt that appeared to have been placed on the property. A report received by BCDC two days later stated that there were probably 30 or 40 loads of dirt on the property.

- B. On November 8, 2019, BCDC staff visited the property and observed piles of dirt on the property.
- C. On November 12, 2019, staff from the San Francisco Regional Water Quality Control Board performed an inspection of the parcel, accompanied by staff from the City of Vallejo and U.S. Army Corps of Engineers. Staff observed recent activities, including disking, grading, and the placement of imported fill dirt.
- D. On November 17, 2019, BCDC opened Enforcement Case No. ER2019.060.00 against Respondents based on the photographic evidence, observed conditions at the property, reports from members of the public, and a review of the public record.
- E. On January 8, 2020, BCDC staff sent an Initial Contact Letter to Respondents describing the alleged violation, directing them to cease all unauthorized work within BCDC’s jurisdiction, and notifying them that they would be expected to restore the affected portions of the protected areas of the property.
- F. On January 28, 2020, BCDC staff met with Respondent Param Dhillon and staff from the Regional Water Quality Control Board and the U.S. Army Corps of Engineers to explain the violation, the nature of the property, the various agencies’ applicable jurisdictions,



and the necessary corrective actions to resolve the violations. Respondent expressed a willingness to hire a wetlands ecologist to conduct a wetlands delineation and assess the impacts of unauthorized activities on the habitat. Shortly thereafter, Respondent Param Dhillon indicated that he was questioning the jurisdiction of BCDC and the other agencies over the property.

- G. On February 7, 2020, the Regional Water Quality Control Board issued to Respondents a Notice of Violation and 13267 Directive to Submit Technical Reports (“13267 Order”). The 13267 Order required Respondents to submit technical reports to describe the unauthorized activities that occurred on the property and to delineate the extent of jurisdictional wetlands at the property. The 13267 Order noted that these reports were needed to inform regulatory decisions by the Regional Water Quality Control Board regarding permitting and corrective actions to restore wetlands.
- I. Respondents retained Dr. Stuart Siegel, who prepared a memorandum, dated August 4, 2020, providing information regarding the potential for jurisdictional wetlands or waters or other restrictions on the property. As stated in this memorandum, the scope was narrowly focused on a review of selected documents and one brief visit to the site in late June 2020. The memorandum does not establish the extent of fill placed in East Lagoon, and it does not describe the corrective actions that would be necessary to restore the property to the condition it was in prior to October 2019.
- J. As of November 30, 2020, Respondents have not prepared a technical report that describes the extent of the unauthorized activities in East Lagoon or the corrective actions that would be necessary to restore the property, and Respondents have taken no steps to restore the property.
- K. BCDC issued a Violation Report to Respondents on July 20, 2020. The Violation Report alleged violations related to the unauthorized fill placed on the property and unauthorized grading activities.
- L. On October 24, 2020, Respondents submitted a Statement of Defense in response to the Violation Report. Respondents admitted placing fill on the property and made no commitments to remove the fill or undertake other corrective actions to restore East Lagoon.
- M. On December 10, 2020, at a noticed Enforcement Committee meeting, the Enforcement Committee voted to adopt the proposed Order.

III. Conditions

- A. Respondents shall cease and desist from undertaking any activities on the property, including placing fill, disking, grading, and other substantial changes, in violation of the White Slough Protection and Development Act.
- B. No later than February 26, 2021, Respondents shall prepare and submit to BCDC a report describing the extent of unauthorized activities undertaken in East Lagoon. The



report shall include an assessment of all fill placed in East Lagoon, the location where the fill was placed, and the disking, grading, and other activities undertaken.

- C. No later than March 1, 2021, Respondents shall submit for approval by BCDC a plan for corrective actions to be undertaken to restore East Lagoon.
- D. Respondents shall undertake and complete all corrective actions described in the corrective action plan approved by BCDC within 60 days of the date that BCDC approves the plan.
- E. Respondents shall monitor the success of corrective actions and provide reports to BCDC in accordance with the terms of BCDC's approval.
- F. Extension of time.
 - 1. If Respondents encounter any event arising from a cause or causes beyond its control that will delay timely compliance with the provisions of paragraphs III.A through III.E above, Respondents shall notify BCDC's Enforcement Policy Manager in writing within five (5) business days of when Respondents first know of the event. The written notice must describe the cause(s) of the delay, the anticipated length of time the delay may persist, the measures taken or to be taken by Respondents to prevent or minimize the delay, the schedule by which the measures may be implemented, and the additional time requested to comply.
 - 2. The Executive Director may grant an appropriate extension of time, for demonstrated good cause, to comply with any provision of paragraphs III.A. through III.E above.

IV. Terms

- A. Under Government Code Section 66641, any person who intentionally or negligently violates any cease and desist order issued by the Commission may be liable civilly in the sum of up to \$6,000 for each day in which such violations persist. In addition, upon the failure of any person to comply with any cease and desist order issued by the Commission and upon the request of the Commission, the Attorney General of the State of California may petition the superior court for the issuance of a preliminary or permanent injunction, or both, restraining the person or persons from continuing any activity in violation of the cease and desist order.
- B. This Order does not affect any duties, right, or obligations established under private agreements or by the laws and regulations of other public bodies.
- C. Respondent must conform strictly to this Order.
- D. This Order does not constitute a recognition off property rights.
- E. This Order is effective upon issuance thereof.



V. Opportunity for Judicial Review. Under Government Code Sections 66639 and 66641.7(a), within thirty days after service of a copy of a cease and desist order and civil penalty order issued by the Commission, an aggrieved party may file with the superior court a petition of writ of mandate for review of the order pursuant to Section 1094.5 of the Code of Civil Procedure.

For the San Francisco Bay Conservation and Development Commission

Lawrence J. Goldzband

Executive Director

[Date]

