

San Francisco Bay Conservation and Development Commission

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Agenda Item 6

February 11, 2021

TO: Enforcement Committee Members

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

SUBJECT: Enforcement Report

Summary

This report summarizes the progress of enforcement case resolution in the fourth quarter of 2020. It also summarizes actions undertaken by the BCDC staff since the last Committee meeting held on December 16, 2020.

During the fourth quarter, staff closed 40 cases, opened 13 cases, and had one after-the-fact permit issued. At the Committee's recommendation the Commission issued one cease and desist order to resolve the Union Point Park matter in Oakland. Thereafter, the Committee recommended the Commission approve a cease and desist order to resolve a violation involving unauthorized fill in East Lagoon in White Slough in the City of Vallejo in Solano County and also recommended the Commission authorize the Executive Director execute a settlement agreement with the City of Sausalito to resolve the enforcement matter related to unauthorized vessels in City waters in Richardson Bay in Marin County.

Also in the fourth quarter, Salt River Construction Corporation submitted \$14, 500 in civil penalties in fulfillment of the terms of cease and desist and civil penalty order CCD2019.001.00 and this was deposited into the Bay Fill Clean-Up and Abatement Fund. In Fiscal Year 2020-2021, \$18,500 has been collected to date. The total balance of the fund, as of December 31, 2020, is \$1,100,000.

Enforcement Definitions

Caseload is the sum of all cases, including active cases, pending cases, and old cases.

Active cases are the cases actively being pursued.

Pending cases are cases within the case management process that have not yet reached 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, and pending enforcement cases/permits with other state and local government agencies, etc.



Old cases are all cases opened in 2016 or earlier, before the Enforcement Committee began regularly meeting and hearing cases, 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.

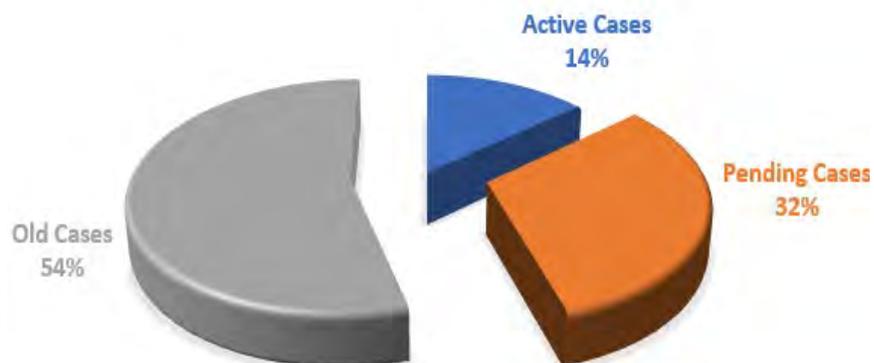
Closed cases are cases that have been resolved. Cases are resolved for various reasons, including, but not limited to, no violation being found, BCDC reaching a settlement with the violator, orders being issued, or a judgment being rendered after litigation.

Actions taken

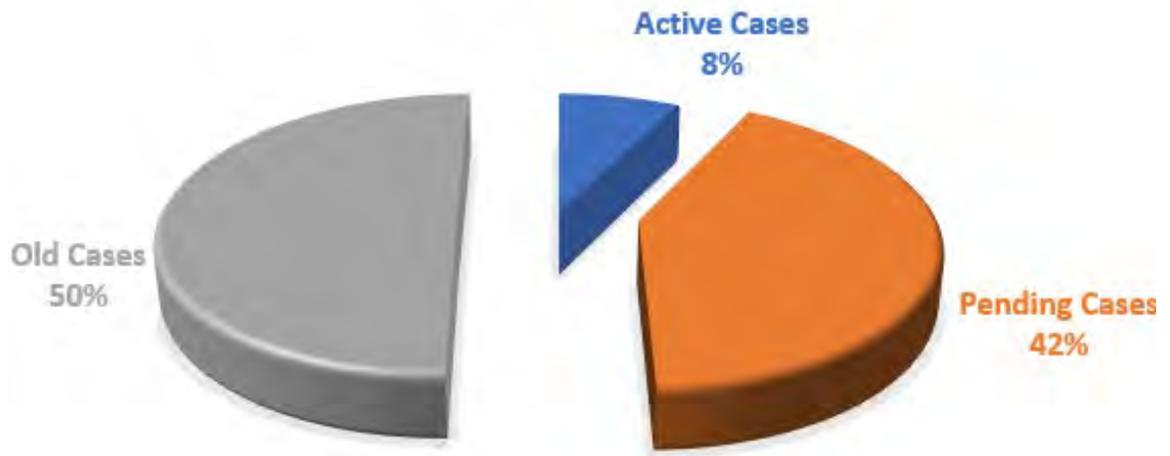
Q1 2020



Q2 2020



Q3 2020



Q4 2020





1. The caseload at the end of the fourth quarter of 2020 was 211. Thirteen cases were opened this quarter, which is 6 less than the 19 that were opened during the same period last year. As more cases progressed into the pending case phase, 9 cases were active cases. The temporary reassignment of one of BCDC's three enforcement staff had an impact on the case resolution rate, reducing the total number of cases actively under review.
2. Forty cases were closed in the fourth quarter of 2020, compared to 21 cases closed in the same period in 2019. Eight of those cases were closed without any violation having been found. One case involved activities outside BCDC's jurisdiction, twenty-four cases were resolved after respondents produced, or enforcement staff independently obtained, documentation proving that the violations had been resolved and seven cases were duplicative reports of existing cases.
3. The process of integrating simplified case status codes onto the enforcement tracking system was completed. A review of cases to assure correct updated status code is ongoing.
4. Of the fifteen grouped cases, one case was closed based on documentation indicating the violation was resolved, leaving three open grouped cases. The remaining cases have specific information missing that has been requested from the respondents to enable case resolution.
5. There have been ongoing discussions to resolve the oldest cases, with periodic updates to the Enforcement Committee on the progress being made. On November 12, 2020, the

Committee received an update about the progress in the resolution of the oldest cases the next update will be during the February 24, 2021, Enforcement Committee meeting.

Future Agenda Items

6. In the first quarter of 2021 the Commission will receive updates on complex cases with an eye toward resolution.