

San Francisco Bay Conservation and Development Commission

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Agenda Item 5

October 8, 2021

TO: Enforcement Committee Members

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

SUBJECT: **Second Quarter Enforcement Report
(For consideration October 14, 2021)**

Summary

This report summarizes the progress of enforcement case resolution in the second quarter of 2021.

During the second quarter, staff closed 60 cases, opened 75 cases, and issued 2 after-the-fact permits. At the Committee's recommendation the Commission issued one 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. Staff received two penalty payments consistent with the Lind Tug and Barge Inc settlement agreement for \$132,279 for unauthorized oyster shell mining for a total recovery of \$88,186 and \$5,000 as part of the penalty owed by Salt River Construction under CCD2019.001.00. The total balance of the Bay Clean Up and Abatement fund, as of June 30, 2021, was \$1,100,866.

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.

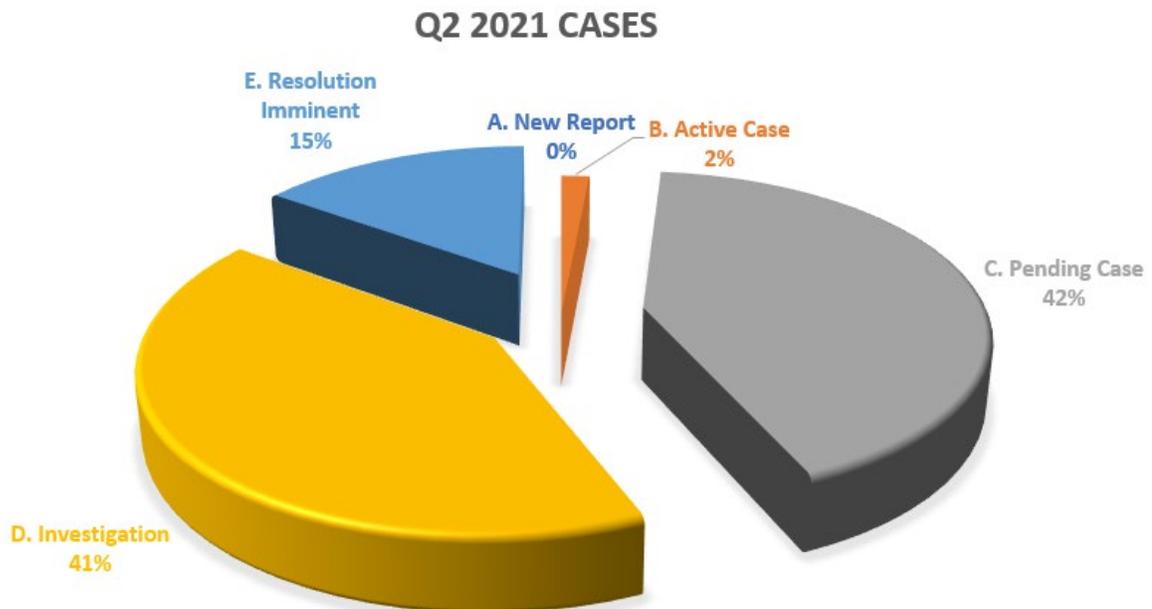
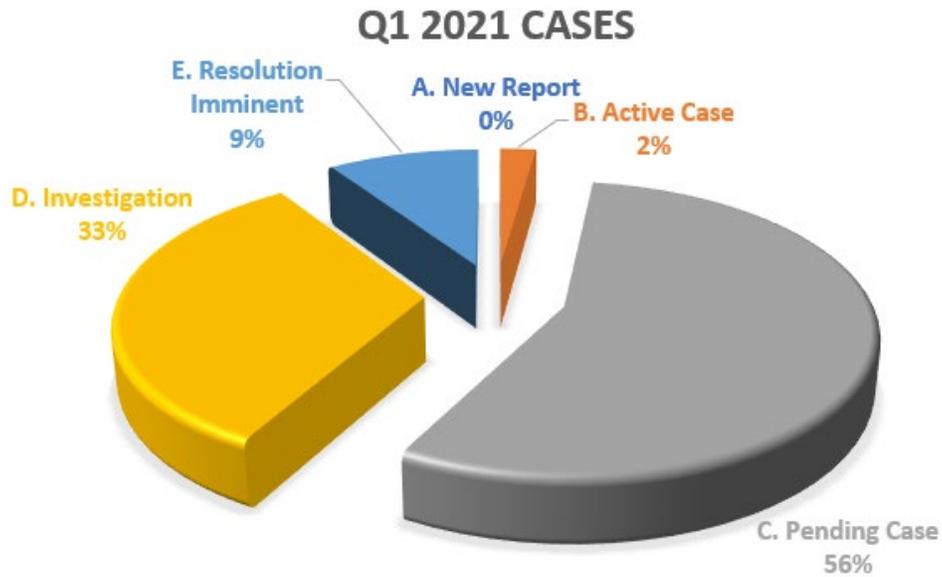
Pending cases are cases within the case management process that have not yet reached the "resolution" milestone. These milestones are defined to include assignment, investigation, negotiation. Cases are pending for various reasons, including but not limited to pending permit applications, pending monitoring 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



1. The caseload at the end of the second quarter of 2021 was 134 a 51 case decrease from the caseload on March 31, 2021. Twenty-six (26) cases were opened this quarter, which is 6 less than the 32 cases that were opened during the same period last year. As more cases progressed into the pending case phase, 2 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 resolution rate on some of the old cases.
2. Seventy-five cases were closed in the second quarter of 2021, a 14 case increase compared to 61 cases closed in the same period in 2020. Thirty-five of those cases were closed without any violation having been found. In 32 cases were resolved after respondents produced, or enforcement staff independently obtained, documentation proving that the violations had been resolved and 8 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, no cases were closed 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 June 23, 2021, the Committee received an update about the progress in the resolution of the oldest cases. The next update will be during the next Enforcement Committee meeting.

Future Agenda Items

6. The Enforcement Committee will receive briefings to assist in the resolution of complex cases.