

State general services gets water pollution fine

Penalty pits state water board against California DGS, contractor

Premium content from Sacramento Business Journal by Michael Shaw, Staff Writer

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A California state water board levied a \$168,000 fine over alleged violations at a construction site, and the party on the receiving end was — the state.

More precisely, the Central Valley Regional Water Quality Control Board issued a complaint to another state agency, the California Department of General Services, in January for the construction of a fire station in Nevada County.

The fine was the first of its kind, say the parties involved. Not because it pits one state agency against another but because there were no allegations of pollution discharge into waterways, only the potential for a problem.

The Department of General Services and its contractor, Sequoia Pacific Builders, are contesting the fine. The dispute's outcome could have ramifications for many construction companies performing outdoor work.

At issue are storm water rules enacted in 2010 to prevent contaminants such as motor oil flowing from muddy construction sites into areas where they could be washed into creeks or streams, especially during the rainy season. The rules are more strict than previous ones and require good site management or “housekeeping” be performed at construction sites to prevent polluting the waterways. Among other things, contractors must install erosion control measures to mitigate runoff and implement a plan to deal with accumulating water during rainstorms.

The water board alleges those rules were broken.

This week, the two government agencies and Sequoia Pacific Builders met to settle the alleged violation, but those negotiations continue. The maximum penalty for the violations is \$1.3 million. If a settlement isn't agreed upon, the matter could go to a full hearing.

It might seem odd for one arm of state government to be fining another. But it's not the first time a state agency has run afoul of rules to protect waterways, said [Wendy Wyels](#), an environmental program manager with the Central Valley Region.

"We had the same problem with Caltrans several years ago," Wyels said.

The recent allegations are the fourth time the water agency has issued a complaint against DGS since 2004 — but it's the first fine.

Wyels said water boards follow a "progressive enforcement format." Water board officials first try to resolve the problem without penalties, she said, but if the problems persist, they assess monetary penalties.

"That's exactly the case here," Wyels said. "Over the years we have notified DGS of its violations ... and provided training to its staff. However, DGS continued to violate the permit so we had to move to stronger enforcement."

There haven't been many problems with other project owners and contractors, said Wyels, because training on the new rules was offered and they are complying.

[Mike Liang](#), a spokesman for DGS said that the agency understands the rules and had policies in place to enforce them.

"The department is committed to protecting the environment," he said. "We had inspectors explain the new procedures."

Sequoia Pacific Builders and its storm water consultant declined to comment.

Liang noted that the four complaints stretch over eight years, and he said that doesn't indicate a pattern of behavior, especially as no fines were issued in the past.

He said DGS and Sequoia have turned over documents to the water agency for further examination.

Wyels said it could be another month before the settlement negotiations conclude.

Michael Shaw covers real estate, construction and state government for the Sacramento Business Journal.