

San Francisco Bay Conservation and Development Commission

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February 13, 2026

TO: Enforcement Committee Members

FROM: Lawrence J. Goldzband, Executive Director, (415/352-3653; larry.goldzband@bcdc.ca.gov)
Sean Wagner-McGough, Enforcement Attorney, (415/352-3628; sean.wagner-mcgough@bcdc.ca.gov)

SUBJECT: **Executive Director’s Recommended Enforcement Decision, including Proposed Stipulated Cease and Desist and Civil Penalty Order No. CCD2026.001.00, in BCDC Enforcement Matter ER2023.063.03 for the placement of unpermitted fill in Vallejo**

(For Enforcement Committee consideration on February 26, 2026)

Summary

On December 29, 2025, the San Francisco Bay Conservation and Development Commission (“BCDC”) issued a Violation Report and Complaint for Administrative Civil Liability (“Violation Report and Complaint”) to Robert Chiang (“Respondent”) for the placement of unpermitted fill within BCDC’s jurisdiction in violation of Section 66632(a) of the McAteer-Petris Act (“MPA”) (Cal. Gov. Code § 66632(a)) and Section 66681(b) of the White Slough Protection and Development Act (“White Slough Act”) (Cal. Gov’t Code § 66681(b)), which require any person placing fill, broadly defined as “earth or any other substance or material,” within BCDC’s jurisdiction to obtain a permit from BCDC that authorizes the fill. More specifically, trash and other forms of pollution have been present in and alongside two creeks that extend from the White Slough onto Respondent’s two parcels (APN 0051-010-460 and APN 0051-010-470) within BCDC’s certain waterways and White Slough jurisdiction in Vallejo.

To resolve this violation, the Executive Director recommends that the Enforcement Committee adopts this Recommended Enforcement Decision (“RED”), without change, as its recommendation to the full Commission. This recommendation includes issuing Proposed Stipulated Cease and Desist and Civil Penalty Order CCD2026.001.00 (“Order”) (Exhibit A), to which Respondent has already agreed after his authorized representative and BCDC staff held confidential negotiations that resulted in an agreement to resolve the violation, the terms of which are reflected in the proposed Order.



As authorized by Sections 66638¹ and 66641.5(e)² of the MPA and Cal. Code Regs. tit. 14, § 11322(i),³ the Order requires Respondent to:

- A. Cease and desist from violating the MPA and White Slough Act;
- B. Within 60 days of the Order's issuance, remove any unpermitted fill, including but not limited to trash, clothing, and other forms of pollution, on Respondent's parcels (APN 0051-010-460 and APN 0051-010-470) within BCDC's jurisdiction;
- C. Within 60 days of the Order's issuance, submit, and obtain BCDC's approval for, a written management plan detailing how Respondent will keep APN 0051-010-460 and APN 0051-010-470 within BCDC's jurisdiction clear of trash, pollution, and other unpermitted fill. Thereafter, Respondent shall implement and comply with the approved written management plan; and
- D. Pay an administrative civil penalty of \$2,500 within 30 days of the Order's issuance.

After the public hearing on this matter is held on February 26, 2026, the Enforcement Committee shall adopt an RED and may adopt, with or without change, the Executive Director's RED pursuant to BCDC regulations at Cal. Code Regs. tit. 14, § 11330. Thereafter, the RED adopted by the Enforcement Committee shall be considered by the Commission at a public hearing pursuant to BCDC regulations at Cal. Code Regs. tit. 14, § 11332.

Background

This enforcement case involves a violation of Section 66632(a) of the MPA and Section 66681(b) of the White Slough Act for the placement of unpermitted fill on Respondent's parcels in Vallejo. Under Cal. Gov't Code §§ 66632(a) and 66681(b), any person who wishes to place "fill," broadly defined as "earth or any other substance or material," within BCDC's jurisdiction must obtain a permit from BCDC that authorizes the fill. Here, large amounts of trash and pollution have been present in and alongside two creeks that extend from, and are part of, the White Slough onto Respondent's parcels: APN 0051-010-460 (the "northern parcel") and APN 0051-010-470 (the "southern parcel"). The unpermitted fill falls within BCDC's certain waterways jurisdiction under the MPA⁴ and BCDC's White Slough jurisdiction under the White Slough Act.⁵

¹ Cal. Gov't Code § 66638 authorizes BCDC to issue a cease and desist order to a person who takes an activity that requires a permit without securing a permit from BCDC and to include terms and conditions that BCDC deems necessary to ensure compliance with the MPA and White Slough Act.

² Cal. Gov't Code § 66641.5(e) authorizes BCDC to impose administrative civil liability of up to \$30,000 for a violation of the MPA and White Slough Act.

³ Cal. Code Regs. tit. 14, § 11322(i) authorizes the Executive Director and a Respondent to agree on the terms of a proposed stipulated order at any time after issuance of a Violation Report and Complaint.

⁴ BCDC's jurisdiction extends to "[c]ertain waterways," including "marshlands up to five feet above mean sea level, on, or tributary to" the Napa River. Cal. Gov't Code § 66610(e). The White Slough is a tributary to the Napa River, and the fill is located on creeks that extend from and are part of the White Slough.

⁵ The White Slough Act explicitly gives BCDC jurisdiction over "most of the area of White Slough." Cal. Gov't Code § 66672.

BCDC staff first discovered the violation on November 29, 2023, when it found large amounts of trash in a creek that touches Respondent's northern parcel and separates his two parcels. (VR&C Exhibit 1). On January 5, 2024, BCDC staff confirmed that Respondent has owned both parcels since 2006. (VR&C Exhibit 2).

On a site visit on August 23, 2024, staff found that the creek that touches Respondent's northern parcel remained polluted with unpermitted fill, including a grocery cart, wood pallets, plastics, and other trash, and that a second creek cutting across Respondent's southern parcel also contained trash, including clothing. (VR&C Exhibit 3). The unpermitted fill appears to have derived from nearby encampments. (VR&C Exhibit 3). Although Respondent may not have personally placed the unpermitted fill on his parcels, BCDC has the authority to hold a landowner liable for unpermitted fill placed on its property by unknown third persons.⁶

Staff, therefore, mailed Respondent an Initial Contact Letter on October 8, 2024 to alert him to the unpermitted fill on both of his parcels and to give him an opportunity to resolve the violation before BCDC took formal enforcement action. (VR&C Exhibit 4). On October 14, 2024, staff spoke with Respondent via telephone, and he told staff that he was aware of the pollution, that he paid a man named Nick Braden to clean his parcels every year, and that he believed that the city of Vallejo was responsible for the creeks. (VR&C Exhibit 5). Respondent, however, has not provided any evidence that the city of Vallejo is responsible for cleaning the creeks on his parcels.⁷

On December 20, 2024, staff returned to the property to review, with Respondent present, the boundaries of his parcels. (VR&C Exhibit 8). Respondent agreed to clean the trash on his parcels by January 3, 2025. (VR&C Exhibit 8).

The unpermitted fill, however, continued to persist. Therefore, on January 22, 2025, staff mailed Respondent a Notice of Violation to inform him that he was in violation of Section 66632(a) of the MPA for the unpermitted fill on his parcels and that if he failed to resolve the violations within 35 days, standardized fines would begin to accrue in accordance with Cal. Code Regs. tit. 14, § 11390(a). (VR&C Exhibit 9). In the Notice of Violation, BCDC staff suggested that he provide BCDC with a written management plan that describes how he would keep his parcels clear of trash and pollution. (VR&C Exhibit 9).

Working for Respondent, Mr. Braden did oversee a clean-up operation on both parcels in mid-April 2025, but during site visits on April 25, 2025 and August 18, 2025, staff found that despite Respondent's efforts, some of the trash and pollution remained. (VR&C Exhibits 11 & 13).

⁶ *Leslie Salt Co. v. San Francisco Bay Conservation etc. Com.*, 153 Cal. App. 3d 605 (1984).

⁷ Staff obtained documents from Solano County showing that although Respondent's parcels are subject to easements, none of those easements make the city of Vallejo responsible for keeping the creeks on his parcels clear of trash or pollution. (VR&C Exhibit 6). Rather, the documents show that Vallejo has public utility, planting, and slope easements that give the city the right of "construction and maintenance [...] of slopes, trees, planting, and public utilities" and the right of egress and ingress over and across any adjoining lands to access those easements. (VR&C Exhibit 6). Additionally, the Vallejo Sanitation and Flood Control District has an easement that gives it a right of way over, in, and under the parcel to acquire, construct, complete, reconstruct, repair, maintain, and operate sanitary sewers and storm drains, and appurtenances. (VR&C Exhibit 6).

Therefore, on November 12, 2025, staff sent Respondent a Notification of Rescission that served as notice that BCDC was rescinding his opportunity to resolve the violation through the standardized fines process because he failed to take necessary corrective actions within 125 days of the Notice of Violation and the Executive Director determined that Respondent did not make a good-faith effort to resolve the alleged violation, in accordance with Cal. Code Regs. tit. 14, § 11390(d). (VR&C Exhibit 15). In total, 294 days elapsed from the date that BCDC sent Respondent the Notice of Violation to the date that BCDC sent Respondent the Notification of Rescission, and although Respondent did attempt to clean his parcels, at no point did he submit a written management plan that could have prevented his parcels from repeatedly becoming polluted with trash from nearby encampments.

On December 5, 2025, BCDC staff made a site visit to confirm that trash and other forms of pollution remained in both creeks on Respondent's property. (VR&C Exhibit 16). Therefore, BCDC officially issued a Violation Report and Complaint on December 29, 2025, which initiated these enforcement proceedings. (Exhibit B: VR&C). The Violation Report and Complaint alleges that Respondent violated Section 66632(a) of the MPA and Section 66681(b) of the White Slough Act by placing fill within BCDC's jurisdiction without obtaining a permit from BCDC and informed Respondent that BCDC was seeking administrative civil liability of \$25,500, as authorized by Cal. Gov't Code § 66641.5(e). In determining the amount of administrative civil liability, staff considered the factors set forth in Cal. Gov't Code § 66641.9(a)⁸ and applied the penalty ranges and adjustment factors identified in Appendix J of BCDC's regulations.

After issuance of the Violation Report and Complaint, BCDC staff and Respondent's authorized representative engaged in confidential settlement negotiations and on February 10, 2026, reached an agreement to resolve the case, the terms of which are reflected in the proposed stipulated Order. Staff believes that the terms and conditions of the proposed stipulated Order are fair and equitable and most importantly, that by requiring Respondent to clean his parcels and to submit, and garner BCDC's approval for, a written management plan that details how he will keep his parcels clear of trash and pollution, staff believes that the violation will be solved on a more permanent basis. Because the trash and pollution stem from nearby encampments, a written management plan that is approved by BCDC and implemented by Respondent may prevent his parcels from becoming polluted with unpermitted fill in the future and thereby facilitate his long-term compliance with the MPA and White Slough Act.

All that is now required to resolve the violation is the Enforcement Committee's adoption of this RED, which includes the proposed stipulated Order, followed by the full Commission's approval at a later hearing, and finally, Respondent's compliance with the Order by paying the \$2,500 administrative civil penalty within 30 days of the Order's issuance; removing the unpermitted fill within BCDC's jurisdiction on both parcels within 60 days of the Order's issuance; submitting, and obtaining BCDC's approval for, a written management plan detailing how Respondent will keep his

⁸ BCDC specifically considered "the nature, circumstance, extent, and gravity of the violation or violations, whether the violation is susceptible to removal or resolution, the cost to the state in pursuing the enforcement action, and with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary removal or resolution efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require." Cal. Gov't Code § 66641.9(a).

parcels within BCDC's jurisdiction clear of trash, pollution, and other unpermitted fill within 60 days of the Order's issuance; implementing and complying with the approved written management plan; and otherwise complying with the MPA and White Slough Act.

Admitted and Contested Essential Allegations

Respondent did not submit a completed Statement of Defense form. Therefore, there are no admitted or contested essential allegations.

Defenses and Mitigation Factors

Respondent did not submit a completed Statement of Defense form. Therefore, there are no defenses or mitigation factors.

Unresolved Issues

There are no unresolved issues that the proposed stipulated Order does not address. If this RED is adopted by the Enforcement Committee and approved by the full Commission, all that would be required to resolve the violation is Respondent's compliance with the Order.

Previous Enforcement Actions

No prior enforcement actions have been taken against Respondent.

Recommendation

The Executive Director recommends that the Enforcement Committee adopts this Recommended Enforcement Decision, without change, as its recommendation to the full Committee. This RED includes Proposed Stipulated Cease and Desist and Civil Penalty Order CCD2026.001.00, to which Respondent has already agreed.

Pursuant to the Order, Respondent must cease and desist from violating the MPA and White Slough Act; remove the unpermitted fill on both parcels within BCDC's jurisdiction within 60 days of the Order's issuance; submit, and obtain BCDC's approval for, a written management plan detailing how Respondent will keep his parcels within BCDC's jurisdiction clear of trash, pollution, and other unpermitted fill within 60 days of the Order's issuance; implement and comply with the approved written management plan; and pay an administrative civil penalty of \$2,500 within 30 days of the Order's issuance.

Only once this RED has been adopted by the Enforcement Committee and full Commission, the Order has been executed by the Executive Director, and Respondent has complied with the terms and conditions of the Order will the matter be fully resolved.

If Respondent fails to comply with the terms of the Order, BCDC is authorized to request that the Attorney General of California seek an injunction and civil penalties of up to \$6,000 for each day in which a violation of the Order persists, pursuant to Sections 66640 and 66641 of the MPA (Cal.

Gov't Code §§ 66640, 66641). If Respondent fails to pay the administrative civil penalty within 30 days of the Order's issuance, the Executive Director is authorized to refer the matter to the Attorney General pursuant to Section 66641.7(b) of the MPA (Cal. Gov. Code § 66641.7(b)). Thus, by adopting this RED and issuing the Order, BCDC would be creating obligations that are legally enforceable should Respondent fail to comply with them.

Proposed Stipulated Order CCD2026.001.00

Proposed Stipulated Cease and Desist and Civil Penalty Order CCD2026.001.00 consistent with this recommendation is attached (Exhibit A) along with the Violation Report and Complaint, with exhibits, dated December 29, 2025 (Exhibit B), and *Leslie Salt Co. v. San Francisco Bay Conservation etc. Com.*, 153 Cal.App.3d 605 (1984) (Exhibit C).

Attachments:

RED Exhibit A: Proposed Stipulated Cease and Desist and Civil Penalty Order
CCD2026.001.00

RED Exhibit B: Violation Report and Complaint ("VR&C") with exhibits

RED Exhibit C: *Leslie Salt Co. v. San Francisco Bay Conservation etc. Com.*, 153
Cal.App.3d 605 (1984)

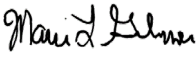
Enforcement Committee Recommendation to the Full Commission:

Please check one of the three boxes indicating your decision, then sign and return the memorandum to BCDC Staff:

By a vote of 3 yeses, 0 noes, and 0 abstentions, the Enforcement Committee adopts the Executive Director's Recommended Enforcement Decision, including the Proposed Stipulated Cease and Desist and Civil Penalty Order, as its recommendation to the full Commission.

By a vote of yeses, noes, and abstentions, the Enforcement Committee conditionally adopts the Executive Director's Recommended Enforcement Decision as its recommendation to the full Commission as specified in the attached memorandum.

By a vote of yeses, noes, and abstentions, the Enforcement Committee declines to adopt the Executive Director's Recommended Enforcement Decision and recommends that the full Commission declines to issue the Proposed Stipulated Cease and Desist and Civil Penalty Order for the reasons specified in the attached memorandum.

Signed by:

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MARIE GILMORE, Enforcement Committee Chair
San Francisco Bay Conservation and Development Commission

2/27/2026
Date