

## **Federal Court Finds West Bay Sanitary District Liable for Sewage Spills**

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San Francisco, CA – In a case brought by San Francisco Baykeeper against the West Bay Sanitary District in December 2009, U.S. District Court Judge Edward Chen has granted summary judgment to Baykeeper in finding the District liable for 21 illegal sewage spills that flowed directly into area creeks and sloughs over the past five years. West Bay serves Menlo Park, Atherton, Portola Valley, East Palo Alto and Woodside, as well as unincorporated areas of San Mateo and Santa Clara Counties.

The court also found those spills to illustrate a systemic problem with the District's sewage collection pipes that would have to be fixed. Judge Chen confirmed that the District could incur Clean Water Act penalties of up to \$975,000 for 26 days of contamination. Baykeeper asked for summary judgment on another 68 spills that the District let run into area storm drains; Judge Chen said showing that the sewage eventually flowed from the storm drain system into waterways would be a matter to prove at trial. Should the District be found liable for those spills at trial, they could be fined an additional \$37,500 for each day a spill reached local waters.

According to State Water Resource Board records, West Bay Sanitary District reported more than 300 sewer overflows between 2004 and 2010 that caused 60,000 gallons of sewage to flow into local creeks and sloughs, or to city-owned storm drains, which are built to drain to creeks and San Francisco Bay.

Spills from the West Bay system have contaminated San Francisquito Creek, Los Trancos Creek, Corte Madera Creek, Redwood Creek, Bovet Creek, Atherton Channel, Bayfront Canal, Ravenswood Slough, Westpoint Slough and San Francisco Bay, including vital spawning grounds for threatened steelhead trout.

West Bay employees have invoked their constitutional rights under the 5<sup>th</sup> Amendment and refused to answer questions during deposition, citing the possibility of incriminating themselves, even though no criminal charges have been filed. For Baykeeper, the employees' fear of incrimination raises the possibility that they are aware of deliberate wrongdoing by West Bay Sanitation District.

West Bay is paying for the litigation with its sewer fund, which consists of fees levied on ratepayers to cover the cost of sewer repairs and maintenance. "West Bay is spending its sewer fund to pay for a maximum litigation strategy, when its own records prove it has spilled sewage into creeks," said Baykeeper's Executive Director Deb Self. "They could have spent that money on repairing the system and stopping pollution."

Over the past year, ten cities and sewage districts have agreed to comply with the Clean Water Act after Baykeeper initiated sewage spill enforcement actions. Baykeeper is prepared to go to trial to defend San Francisco Bay and its tributaries against West Bay's pollution but would prefer that the District enter an agreement to reduce its sewage spills, rather than continue racking up legal costs.

Spills of untreated sewage include organic matter that causes oxygen depletion and may be implicated in the recent spate of Leopard shark die-offs. Disease-causing bacteria, viruses and toxic metals from area industry also pose a health threat to humans and wildlife that come into contact with sewage spills.

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*San Francisco Baykeeper is the Bay's pollution watchdog, using science, advocacy and litigation to protect and restore San Francisco Bay. For more information, visit us at [www.baykeeper.org](http://www.baykeeper.org).*