



**Central Valley Regional Water Quality
Control Board**
Update of Compliance
and
Enforcement Activities

2010-2011 Status Report

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Title slide

Good morning Board Chair, members of the Board. My name is Dan Radulescu. I am the Enforcement Coordinator for the Central Valley Region. This update represents our commitment to inform the Board and the public, beyond what is already available on line or in our routine updates in the Executive Officer's Report, about our activities in compliance and enforcement arena and continue the dialogue, if we are on the right track, where we may need any corrections or changes in focus.

I also want to note that this year marks the 40th anniversary of the Federal Clean Water Act, →a landmark federal law that drives many of the activities I will outline in my presentation. The Federal Clean Water Act is recognized as a tough law and it has very ambitious goals.

The other landmark law, the state Porter-Cologne Water Quality Control Act, took effect on January 1, 1970. It combined the State Water Rights Board and the State Water Resources Control Board and created the nine Regional Water Boards. The Porter-Cologne Act built on institutions established 20 years earlier in the Dickey Water Pollution Act of 1949. Planning was to become a critical focus of the 20-year-old water boards. The planning mandates looked to protect beneficial uses, but also acknowledged that the boards should consider all of the significant factors that affect water quality. These plans were to contain a consideration of competing interests. Coupled with the underlying plans, the Porter-Cologne Act significantly expanded the enforcement authority of the water boards. Water quality control plans to protect beneficial uses would do little good if they could not be enforced. The Porter-Cologne Act strengthened the authorities available for the water boards so they could issue waste discharge requirements and remedial orders fashioned to implement the water quality control plans. It also included a suite of new administrative and judicial enforcement tools to compel compliance with board orders. The Porter-Cologne Act was a cutting edge water quality law. Portions of it became the model for the 1972 amendments that invigorated the Federal Clean Water Act. In many respects Porter-Cologne still surpasses the federal act, because it allows the water boards to comprehensively regulate surface *and* ground waters. It also allows the water boards to establish requirements for nearly any source of waste discharge, including nonpoint sources and certain other sources exempted from the federal act's permitting requirements.

I am proud to say, that the state of the region in enforcement continues to be very strong despite significant staffing constraints in the previous years due to state budget conditions. However, that does not mean that there are no areas where we look for enhancements and improvements internally, and externally, in partnership with Office of Enforcement, Cal-EPA, U.S. EPA and the other Water Boards.

This morning, I will highlight:

- A brief overview of the region, especially to help new Board Members understand the magnitude of the issues and activities addressed in our region;
- A brief overview of enforcement policies and procedures;
- Current status and achievements and progress made from the previous report;
- Some of the challenges;
- And next steps for our compliance assurance and enforcement efforts.

This report is a continuation of the regular updates that we made in 2005, 2006 , 2008 and 2010. Copies of those presentations are available on our website. This report is also an expansion of the State of the Region Report presented by the Executive Officer at the last Board Meeting, relative to our enforcement efforts.

Central Valley Region - Key Component to the State's Prosperity

- Nearly 40% of State's land area
- 18% of the population

- Is one of the most productive agricultural regions in the world
- Produces more than 250 different crops worth \$17 billion per year (2002), or 8% of the food produced in the U. S. by value
- Accounts for 1/6 of irrigated land in the U.S.
- Supplies 1/5 of the demand for groundwater in the U.S.
- Is the second most pumped aquifer in the U. S.



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First, I would like to present a brief reminder of some of the impressive statistical facts about our region.

Our region covers about 60,000 sq. miles → or almost 40 percent of the State; if Central Valley would be a state, it would be the 20th largest state of the Union by land mass, and despite the recent economic downturn, the California's economy is still among one of the top ten economies in the world;

18 percent of State's population lives here but it is still expected a significant growth in the next decade despite the current economic conditions;

In our Region there are 36 of 58 counties;

Our region contains the largest west coast estuary delta; the 2nd largest contiguous groundwater basin in United States;

The majority of water quality issues faced throughout the state, such as discharges from dairies, irrigated lands, waste land application, timber harvest, are in the Central Valley; if there is an issue throughout all of California, except perhaps ocean outfalls, we have to address it in our region too.

The Central Valley still faces high growth rates but that also brings serious concerns about water demands and the waste disposal associated with this growth.

There is significant effort to meet the challenges in front of us, and we have to balance our resources among competing priorities.

Central Valley Region - Key Component to the State's Prosperity

- Provides drinking water for close to 66% of Californians
- 50% of state's managed water supply
- Approximately 77% of irrigated agriculture

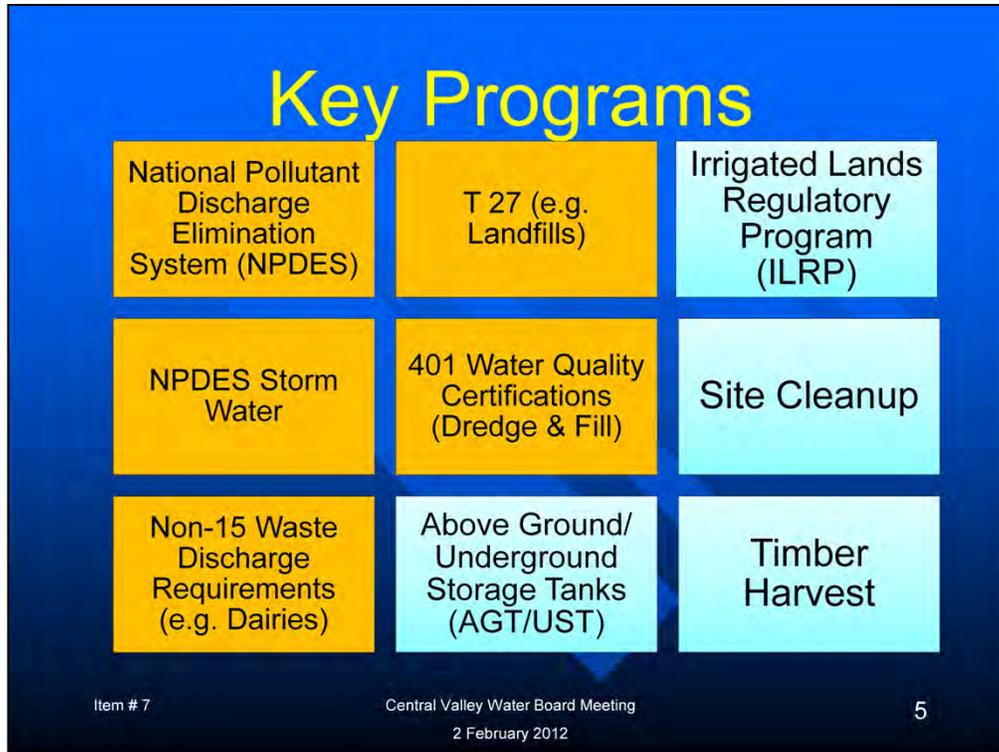


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The water resources in our region → serve as a source of drinking water for nearly 2/3rds of Californians, represent half of the state's managed water supply, and also support the agricultural activities in the Central Valley that signify three quarters of the irrigated agriculture in the state.



I also want to make a clarification about the terminology I am going to use throughout my presentation. I will refer often to “core regulatory” programs, highlighted in orange, → which include traditional NPDES permittees with discharges to surface waters, such as wastewater treatment plants; storm water permittees; Non Chapter 15 discharges to land permits, including sewage treatment facilities, collection systems, and combined animal facilities operations such as dairies; Title 27 discharges to land permits, including landfills; and 401 Water Quality Certifications, wetlands, and dredge and fill. The other regulatory programs include, broadly, Above and Underground Storage Tanks, Cleanup sites, Irrigated Lands Regulatory Program, Timber Harvest. The distinction is more due to historical reasons and the data management tools used to track activities, all these programs are equally important to us. I also have to recognize that there are other ways to classify these regulatory activities, by function, as I am also doing in my today’s presentation, when I am talking about the “enforcement” program versus, as an example, the permitting or the planning components of our activities.

Central Valley Region - Key Component of the Water Boards' Activities

Program caseloads

- 339 individual or enrollees NPDES dischargers
- 1,300 clean up cases
- 812 UST cases
- 25,000 participants ILRP
- 3,210 Non-15 WDRs including Dairies
- 3,500 storm water dischargers
- 2,250 Timber Harvest Projects and
- others

Total: ~38,000 caseload



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As you can see from this slide we regulate a significant number of individual dischargers or projects covered in nine broad programmatic areas.

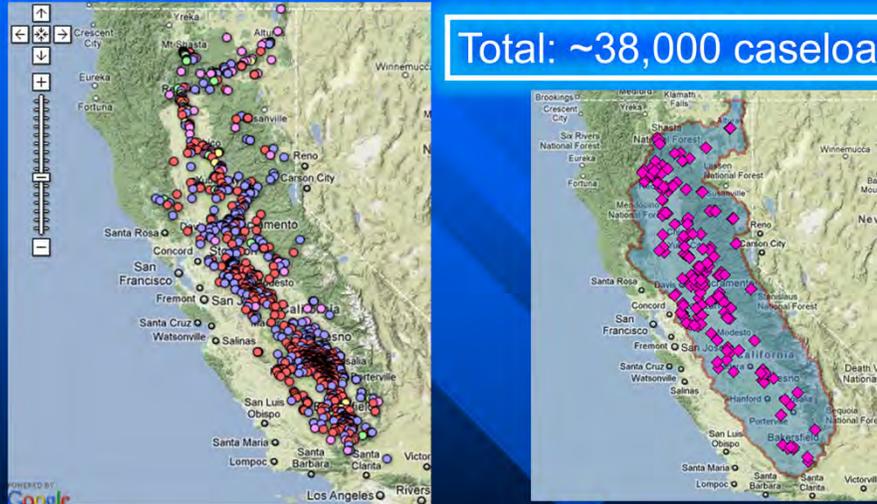
We regulate, for example:

- Close to one quarter of the individual National Pollutant Discharge Elimination System (NPDES) permits statewide (171);
- In the Site Assessment and Cleanup Program we currently oversee over 1,300 active cases;
- The Region's Irrigated Lands Regulatory Program addresses discharges from close to 25,000 participants;
- Over 3,200 dischargers in the Non 15 Waste Discharge Requirements Program, 1,100 with individual WDRs (nearly a third of the statewide total); also there are approximately 1,500 confined animal facilities operations in the Region, about 80 percent of statewide caseload;
- The Region's Storm Water Program regulates 34 cities/urban areas under Phase I municipal storm water permits and 64 municipalities under Phase II, oversees 1,500 construction sites and over 1,800 industrial sites, and manages the Caltrans statewide storm water permit for operations in our region;
- We oversee over 2,200 Timber Harvest projects; on average, 62% of the timber harvest conducted statewide on private lands occurs within our region each year.

The overall total of the individual regulatory instruments we currently oversee is around 38,000 individual dischargers, or projects of various sizes, with a staff of 246 persons.

Central Valley Region - Key Component of the Water Boards' Activities

Total: ~38,000 caseload



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This slide is an attempt to give a geographic flavor to the scale of our caseload as detailed in the previous slides. On the left size → there is a picture that attempts to map all the facilities covered by core regulatory programs tracked in California Integrated Water Quality System or CIWQS, and on the right → the facilities covered by traditional NPDES permits alone, treated wastewater point source discharges to surface waters.

Each year, overall, on average, we review tens of thousands of monitoring reports, assess compliance by evaluating hundreds of thousands of compliance data points, we perform thousands of field inspections, we follow up on hundreds of complaints, we take thousands of water samples, and we enter tens of thousands of data records.

Central Valley Region - Key Component of the Water Boards' Activities



The California Water Boards' Annual Performance Report - Fiscal Year 2010-11

REGULATE: IRRIGATED LANDS

MEASURE: NUMBER OF FARMING OPERATIONS ENROLLED
SIZE OF OPERATIONS ENROLLED

MESSAGE: *The three regions most active in the Irrigated Lands Regulatory Program regulated 77% of their agricultural operations and 81% of their agricultural drainage.*

Farming Operations Enrolled	28,662
Estimated Farming Operations Remaining to be Enrolled	27,595

MEASUREMENTS - Data Last Updated on: 09-16-2011 (3:03 PM)

Region	Total Estimated Acres in Region	New Acres Regulated in FY 10-11	Total Acres Enrolled Under Waiver	% Acres Enrolled	Total Estimated Number of Farm Operations	New Operations Regulated in FY 10-11	Total Operations Enrolled Under Waiver	% Operations Enrolled
1	259,288	0	80,000	31%	3,888	0	0	0%
2	138,240	66,565	66,565	48%	7,878	241	241	3%
3	435,000	-8,236	389,128	89%	2,993	21	1,712	57%
4	105,000	-4,904	85,096	81%	2,109	25	1,709	81%
5	6,000,000	36,986	4,836,986	81%	31,800	260	25,000	79%
6	0	0	0	0%	0	0	0	0%
7	700,000	0	460,000	69%	3,998	0	0	0%
8	81,000	0	0	0%	534	0	0	0%
9	200,000	110,000	110,000	55%	3,457	0	0	0%
TOTAL	7,818,528	200,411	6,047,775	76%	56,257	507	28,662	51%

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As an additional geographical example, this slide outlines the contribution of our region in the implementation of the state wide Irrigated Lands Regulatory Program. As I already mentioned, the Irrigated Lands Regulatory Program covers close to five million acres of irrigated agriculture and over 31,000 farming operations with 25,000 individual participants in eight coalitions.

Due to the size and complexity of the challenge, a number of innovative tools have been used by the Irrigated Lands staff to be more efficient in how they dealt with large numbers of individual enrollees. One approach was to allow the formation of coalitions so individual members can share in resources and information and decrease the burden of administrative processes. Staff have implemented streamlined review process of information, used Geographical Information System and parcel identification tools, phased and batched outreach communication tools in program's implementation and they also used similar processes for compliance and enforcement activities since compliance is still determined on an individual basis.

Water Quality Control Boards – What Do We Do?

Our Vision

A sustainable California made possible by clean water and water availability for both human uses and environmental resource protection.

Our Mission

To preserve, enhance, and restore the quality of California's water resources, and ensure their proper allocation and efficient use, for the benefit of present and future generations.

Primary Functions:

- Planning
- Regulation
- Enforcement

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The foremost responsibility of the Water Boards is to implement water quality laws, plans and policies to protect public health and the environment. Primary functions include, broadly speaking, Planning, Regulation and Enforcement. Planning activities include setting standards, developing Total Maximum Daily Loads, regulation component include issuance of permits, waste discharge requirements and other permitting mechanisms, enforcement covers broadly activities to determine compliance with the permits and Basin Plan provisions and taking enforcement, if necessary.

The State Water Resources Control Board (the State Water Board) was created by the Legislature in 1967. The mission of the State Water Board is to ensure the highest reasonable quality for waters of the State, while allocating those waters to achieve the optimum balance of beneficial uses. The joint authority of water allocation and water quality protection enables the State Water Board to provide comprehensive protection for California's waters.

The State Water Board consists of five full-time salaried Members, each filling a different specialty position. Each board member is appointed to a four-year term by the Governor and confirmed by the Senate. There are nine Regional Water Quality Control Boards (Regional Water Boards). The mission of the Regional Water Boards is to develop and enforce water quality objectives and implementation plans that will best protect the beneficial uses of the State's waters, recognizing local differences in climate, topography, geology and hydrology.

Each Regional Water Board has nine part-time Members also appointed by the Governor and confirmed by the Senate. Regional Water Boards develop "basin plans" for their hydrologic areas, govern requirements/issue waste discharge permits, take enforcement action against violators, and monitor water quality. The task of protecting and enforcing the many uses of water, including the needs of industry, agriculture, municipal districts, and the environment is an ongoing challenge for the State Water Board and Regional Water Boards.

In our today's presentation we are addressing only the enforcement aspects of our activities. Some of the other activities have been addressed in the Executive Officer's recent State of the Region presentation.

Discharge of Waste Is Not a Right

- Protecting the environment is an important national goal
- Both Federal and State laws give us broad authority and discretion
- Enforcement is a necessity and a priority

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It is significant to recognize that protecting the environment is an important national goal and that both federal and state laws do not recognize a right to discharge pollutants without a permit and allow the degradation of the quality of the receiving waters. Both statutes have a similar framework but there are also dissimilarities. For example, the Clean Water Act allows third party lawsuits while the Porter Cologne Act provides for the right to petition to the State Water Board actions or inactions of the Regional Water Boards.

In addition, state law gives us broad authority and discretion to take appropriate action in a fair, consistent and balanced manner tailoring enforcement responses based on the specifics of the case, particularities of our region and in concordance with the existing policies of the State Water Board.

Enforcement Is A Priority

- California EPA Enforcement Assessment
- U.S. EPA Enforcement Review
- Public Awareness

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The Water Boards have a strong policy with respect to enforcement. In addition, the Governor, CalEPA, and the State Water Board support strong enforcement. Strict law enforcement is vital to assure environmental protection, prevent polluters from achieving unfair competitive advantage against complying competitors, sends a message of public values, and establish conditions conducive to voluntary compliance.

A few years ago, CalEPA performed a survey on enforcement conducted by the Boards, Departments and Offices. Some of the findings included, strengths:

- Water Boards have clear administrative enforcement authority, and
- Make good use of this authority – particularly in view of the very limited resources dedicated to enforcement tasks.

The additional focus should be on:

- Increasing compliance rates
- Reducing risks to the environment
- Better data analysis and information availability

Also, in 2007, U.S. EPA reviewed enforcement activities performed in our region on behalf of the State of California for a phase one nationwide enforcement status report. In its report, U.S. EPA concludes that we are performing excellent in enforcement in the NPDES program from a nationwide perspective. The report however identified that we had to improve our data tracking and data management capabilities. As a response, since then, we significantly improved our data management with assistance from the State Water Board staff. U.S. EPA will perform shortly the phase two of that nationwide performance review, however, I am confident that they will find that we further improved our performance.

Public awareness and interest in our performance is another reason to evaluate and discuss our policies and procedures and our activities.

Governor Brown's directives, the Cal/EPA Strategic Vision, State Water Board's Strategic Plan established a management priority of improving enforcement activities and outcomes. The Strategic Vision specifies: "Enforcement of the law must be consistent, predictable, fair, and equitable. There can be no equivocation or hesitation in the pursuit of individuals or businesses violating laws that protect human health and the environment."

Enforcement Goals

- Protect Public Health and the Environment
- Prevent Pollution
- Promote Prompt Cleanup of Existing Pollution
- Level Playing Field
- Encourage Self Compliance
- Deterrence



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The goals of the enforcement are to protect public health and the environment, prevent pollution, promote prompt cleanup of existing pollution. In addition, our enforcement activities serve as a deterrence for those that are tempted to lower their standard of compliance or ignore the law.

We also strive to assure a level playing field – by this we mean that dischargers not complying should not gain unfair economic advantage over those complying, and our actions need to be consistent (those in like circumstances are treated alike).

In case of environmental damage the discharger has the responsibility to take remedial measures and we aim to promote and encourage voluntary self compliance by all our dischargers.

Why Enforce?

Our chief goal is compliance. However, without a strong enforcement program, you cannot reasonably expect compliance.

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Still, our main goal is compliance. The permits are tailored to address specific water quality issues and protect beneficial uses. We depend on the dischargers to perform a self-evaluation of their performance and report to us if they meet the conditions of the permits or not. However, we need a strong enforcement program that verifies the level of compliance by all dischargers, determine if those that may need permits comply with the law, and take immediate enforcement when public health or the environment is in imminent danger of negative impacts.

Basis for Enforcement

- The law prohibits discharging wastes without a permit
- Permits and Basin Plan contain conditions and provisions that must be complied with



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As I mentioned, the law prohibits in general the discharges of pollutants without a permit unless there is a specific exemption.

Permits, orders and conditional waivers include: prohibitions, discharge specifications, provisions, task schedules, monitoring requirements. There are also conditions and prohibitions in the Basin Plan that must be complied with.

These form broadly the basis for enforcement actions.

Enforcement: An Integral Component of Regional Board's Activities

- An enforcement action is typically the conclusion of a set of activities
 - Compliance determination
 - Compliance inspection
 - Monitoring report review
 - Field surveillance
 - Complaint investigation



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Typically, an enforcement action is initiated by an inspection, a monitoring report review, field surveillance activities, a public complaint, etc. However, most of the times it is the conclusion of a sequence of activities and represents only the tip of the iceberg of those actions. It is not unusual that staff may spend hundreds of hours of work on a difficult enforcement case alone. That does not take into account the permitting, compliance determination activities preceding the enforcement action or the additional staff time that will be spent following up after the enforcement action is initiated to assure compliance with Regional Board's decision.

Enforcement Action Types

Resources **Gravity**

Water Quality Enforcement

**Progressive Enforcement:
An Overview**

The Water Boards use progressive enforcement that incorporates limited enforcement resources efficiently and effectively.

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Consistent with State Water Board Enforcement Policy we use a progressive enforcement approach; generally we start at a lower level which is cost effective and in many cases very effective in bringing about compliance. If compliance is not achieved, we move to increasingly more stringent actions until the discharger is in compliance. That is the → “gravity” arrow. This arrow also reflects that if we are facing an egregious violation or significant threat to public health or the environment we will generally start with a more significant enforcement action, for the more egregious violations, as I will show in the next slide; it also does not mean that we will move linearly from one enforcement action type to another, but we will use the appropriate tools to escalate the level of enforcement.



This slide is a simplistic depiction and an engineer's view of what is a complex process. I hope the lawyers in the room will excuse the liberties we took to assemble this diagram. I will draw your attention to a number of points. Please also keep in mind the number of individual dischargers that we regulate currently, as presented before.

First

•Enforcement can be classified as **informal** which forms the base of the pyramid or **formal** which tend to be further up the scale.

Informal actions include verbal communications by staff, written communications (staff enforcement letters) and notices of violation. Through **Water Code section 13267 Orders**, which are formal actions, the Regional Water Board may require a discharger to furnish, on request, under penalty of perjury, technical or monitoring reports that may be needed to determine the status of the discharge or proposed discharge of waste.

Second point from this pyramid – →resources. The higher up the pyramid we go, the greater the associated staff time and resources to conduct an action it will be. Please also keep in mind the ancillary activities such as data management. In light of our limited resources, we have to continuously balance our efforts between permitting, planning, compliance and enforcement activities and prioritize our responses.

Third point – the base of the pyramid reflects the category of enforcement where we produce the highest number of actions. This is **informal** enforcement (staff spends a significant amount of time conducting informal enforcement). There are fewer actions in quantity as we move higher up the pyramid. As you note the bulk of the pyramid is composed by informal actions and 13267 investigative orders.

The rest of the actions identified in the top layers of the pyramid are specified in the Water Code and are formal enforceable orders and include Time Schedule Orders which provides dischargers time schedules to come into compliance under certain conditions.

Fourth point – **As I already mentioned**, the Water Code is powerful and well crafted in that it provides a wide variety of tools to the Water Boards for addressing the wide variety of circumstances we encounter, and provides the flexibility to carefully tailor enforcement responses that are most appropriate to the situation and will be the most efficient and effective.

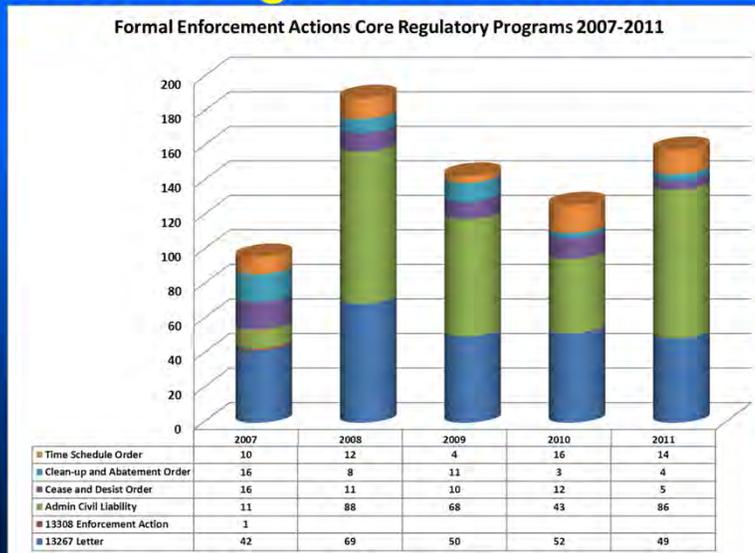


The total counts for the documented enforcement actions issued in the last five years for the core regulatory programs matches the progressive enforcement pyramid →.

The slight difference is the higher number of ACLs that depicts the successful effort to address the backlog of Mandatory Minimum Penalties between 2007 and 2010. 224 out of a total of 321 have been MMP ACLs. ACLs are the most common formal enforcement actions that the Board Members will evaluate, however, those will be only the contested or highly controversial items, many of them are settled before they reach the Board’s attention. While important, they do not represent the majority of our enforcement actions.

Furthermore, →→if we add enforcement actions from the other regulatory programs, the counts may easily double, and as the other databases will improve their tracking of enforcement actions, we will have even more accurate figures in the future. As an example, the ILRP alone issued in the previous five years more than 1,900 13267 letters and orders and issued hundreds of NOVs, similarly the UST and Cleanup programs issued many cleanup orders and thousands of informal notices and directives.

Outstanding Performance



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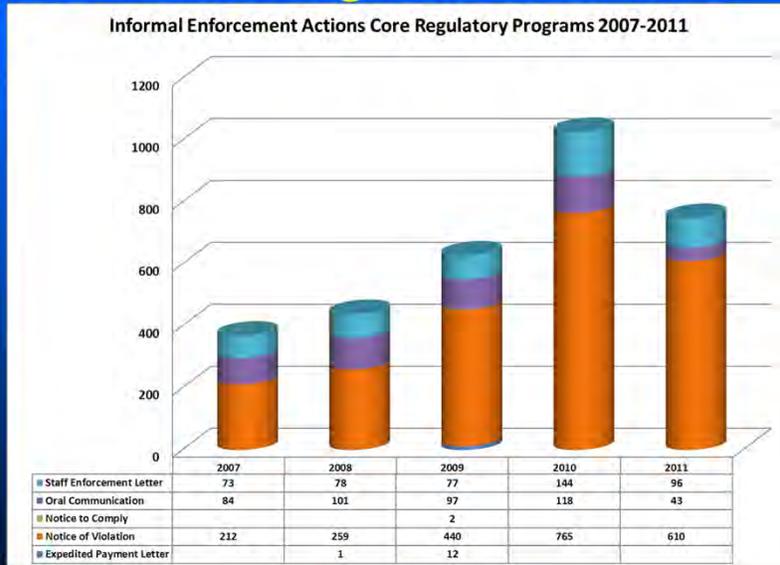
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This graph represents the formal enforcement actions undertaken in the last five calendar years in core regulatory programs. Remember, this represents the tip of the pyramid. You will also note in the next slide that a spike in informal actions in one year may be followed by a spike in formal ones next year based on the progressive enforcement approach.

Outstanding Performance



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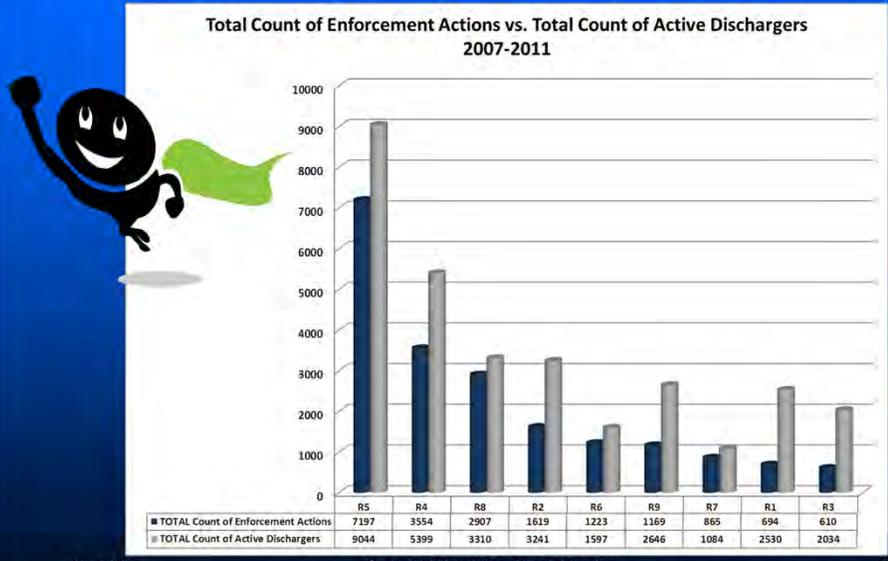
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Similarly, this chart provides a flavor about our use of the informal actions through the last five years and they reflect the base of the pyramid. This also demonstrates the constant adaptability of our activities to the right combination of formal and informal activities to maximize the use of our limited resources and be as effective and efficient as possible while assuring a high compliance rate.

Outstanding Performance



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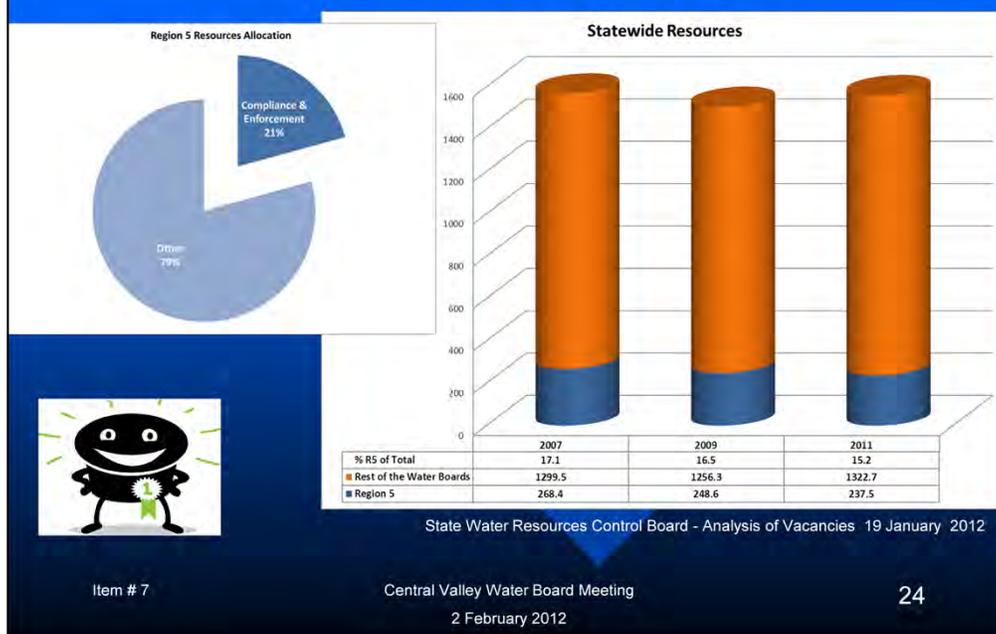
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Furthermore, this slide confirms that in the core regulatory programs, the Central Valley Water Board has the highest aggregate active caseload of all the Water Boards and the highest output of enforcement activities. Close to thirty percent of all statewide active permitted dischargers or projects are in our region and over a third of the total count of statewide enforcement actions are accounted for in our region also.

Enforcement Resources



Although we handle these impressive caseloads only about 17% of the total statewide workforce in the Water Boards system is allocated to our Region. These figures represent statewide total number of authorized positions comparison. Our region's resources are shown → as the blue bar of the graph on the right while the orange top portion represent the resources allocated to the rest of the Water Boards.

Internally, overall, approximately one → fifth of our resources are performing compliance and enforcement activities. The other resources are involved in planning and assessment, permitting, and administrative assistance activities.

Success Stories

- Concluded MMP Enforcement Initiative
- Enrolled all NPDES majors in eSMR
- Sent a Consistent Message

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The reorganization that was completed in 2007 to establish dedicated compliance and enforcement groups for core regulatory programs in Sacramento and Fresno offices has proven instrumental in the results obtained since then. It allowed for more focused attention and timely processing of compliance and enforcement activities.

A couple of the most significant achievements since the last report are the successful conclusion of the MMP Enforcement Initiative initiated by our Board in early 2007, that became shortly afterwards a statewide initiative, and more recently, the enrollment of all the major NPDES permittees in the electronic Self Monitoring Report submittal system.

In addition, we sent a consistent message that we will enforce vigorously all our permits, laws and regulations, due to our recent enforcement actions in the Dairy and Irrigated Lands arena. As I already mentioned our main goal is compliance, however we also want to assure a level playing field among our permittees.

Successful MMP Enforcement Initiative



Fact Sheet

**Water Code Violators Held Accountable
Under Mandatory Minimum Penalty Law**



MMP Initiative Update

May 2011

- 89 Facilities with violations
- 5,454 violations addressed
- Total liabilities issued \$16.4 million
- \$ 8.7 million in SEPs and CPs
- \$ 3.7 million paid or agreed to pay to CAA

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/mmp_update0511.pdf

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Violations subject to Mandatory Minimum Penalties are a statewide priority for enforcement.

In 1999, the California Legislature passed SB 709, which required that certain state Water Code violations be subject to MMPs. A mandatory minimum penalty (MMP) is a penalty of \$3,000 which must be assessed for certain, specified violations of the Water Code for discharges covered under NPDES permits.

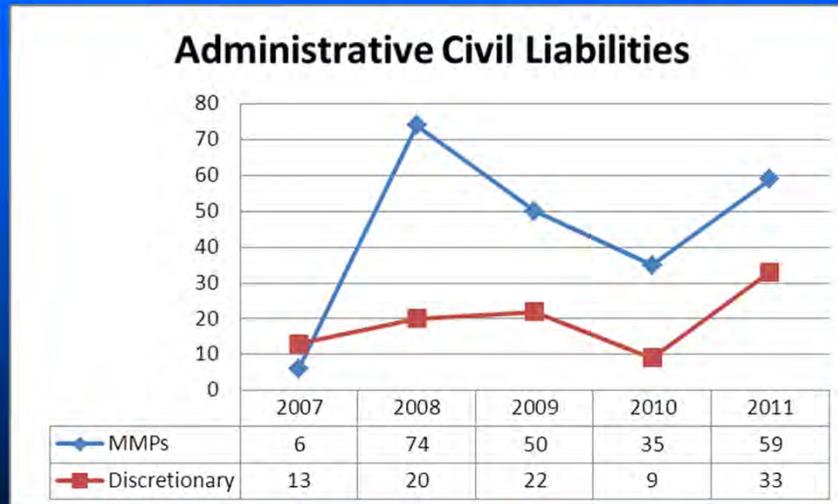
This legislation changed the status quo. Previously, priorities and work loads of the Water Boards determined enforcement actions and penalties. That, inevitably, led to uneven assessments of penalties for violations. After the passage of the MMP legislation, the Water Boards began assessing MMPs. However, a variety of factors led to a backlog of unresolved cases. After the State Water Board's Office of Enforcement was created in 2006, the Water Boards launched a concerted effort to eliminate the backlog of more than 12,000 state wide backlogged MMP violations that occurred between Jan. 1, 2000 and Dec. 31, 2007. However, our Board was pro-active and has been one of the first to start addressing the backlog of MMPs, in early 2007.

Due to this statewide effort, in our region alone, the backlog has been addressed through issuance of more than 90 individual enforcement actions during the initiative. More than 5,500 violations resulted in MMPs in excess of \$16 million. Due to a high number of small disadvantaged communities in our region, many of those facilities agreed to implement CPs or SEPs to offset the assessed MMPs and use those funds in water quality improvement projects, as allowed by law.

You noticed that there is a gap of approximately \$3 million between total liabilities issued and collected liabilities or dedicated funds to improvement projects, there is still a small number of unresolved cases, due to disputed matters that involves facilities serving small disadvantaged communities.

Continuing the momentum from the MMP Initiative we aim to stay current with addressing the MMP Violations and the latest tally of MMP violations addressed in the first decade of the millennium is now at over 10,500. We also match the goal of the Enforcement Policy to address the MMP violations within 18 months from discovery. As a note, our region addressed close to a third of statewide MMP violations and that again is a testament to the staff's efforts and dedication.

Successful MMP Enforcement Initiative



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However, as this graph shows, the success with the MMP Initiative came at a cost with addressing other issues with discretionary ACLs and proves that, although not shying away from a challenge, we have to perform a balancing act in addressing competing priorities with limited resources. Paraphrasing John Muir: “when one tugs at a single thing in the Water Boards, one finds it attached to the rest of the Water Boards’ activities.”

Other Successful Actions

- Mines: 13267 Order for Five Mines in Sulphur Creek Watershed
- Diffuse Runoff: CAO Rubicon Trail
- ILRP: ACL Stanislaus Almond Ranch
- Storm Water: ACL Caltrans State Route 65 Lincoln Bypass Project
- Land Disposal: CDO Jackson Road Landfill
- Non 15: CDO & ACL Lake Berryessa RID

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To demonstrate the point that despite a focus on MMPs backlog, we still had other successful outcomes, I will highlight a very brief summary of some of the other discretionary actions, in other regulatory programs, for finished projects or under way:

- A 13267 technical and monitoring order for five mines discharging in Sulphur Creek to provide information and enhanced monitoring that will lead to adequate characterization, remedial actions and control of legacy mining pollutants;
- A CAO for the installation of adequate controls of sediments and other pollutants associated with off-highway vehicle traffic and other environmental management activities at the worldwide famous Rubicon Trail off-highway vehicle course that will lead to continued use of the trail under strict environmental controls and management activities;
- In the ILRP, an action for \$300,000 for uncontrolled releases of runoff loaded with pollutants from an almond ranch that led to significant on-site controls improvements and will encourage other dischargers to implement adequate runoff controls;
- In Storm Water Program, an ACL for \$325,000 for discharges of sediment-laden runoff, due inadequate construction activities controls on site, at a Caltrans project that required the agency to upgrade its on-site management activities and improvements in its overall storm water program;
- Title 27: Jackson Road Landfill, a CDO that settled a long history of non-compliance, outlining a Closure and Post Closure Maintenance Plan that will lead to safe closure of the landfill and requires post closure monitoring and maintenance activities.
- Non 15: Lake Berryessa Resort Improvement District, a CDO and a liability action for \$375,000 that settled a long history of sewage spills and will result in upgrades in the wastewater treatment system, improved flow and storage capacity and pumping reliability, replacement or repair of failing sewer lines.

Enforcement Actions Results

- Reduce amount of pollutants released
- Cleanup of contaminated sites
- Require process or operation improvements
- Change behavior
- Send a strong message

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However, there is more to our performance than item counts, our activities led to real protection of water quality, improvements in treatment processes; site clean up; implementation of adequate storm water runoff pollution control measures; we addressed sanitary sewer overflows and capacity issues; we required improved site management and disposal practices; all these activities led to significant amounts of pollutants not being released to the environment, rehabilitation of valuable lands and reintroduction in the stream of commerce, changing behavior where necessary.

Our enforcement actions are critical safeguards to a sustainable and healthy Central Valley. Due to our efforts, these years accomplishments resulted in impressive environmental outcomes which will have positive impacts for our communities and serve as a powerful deterrent for those inclined to violate environmental laws.

Our enforcement priorities are lined up with the National and State priorities to keep raw sewage and contaminated storm water out of the region's streams, preventing animal waste and agricultural wastewater from contaminating surface and groundwater, stopping polluted runoff from mines to impair our waters.

Due to the organizational changes and staff's dedication to performance we have become a more effective and efficient organization that is reflected by the outcomes. We have a top notch staff, we do more with fewer resources, and we will continue to find ways to be more efficient and effective, and remain focused on real results and beneficial outcomes.

Next Steps

- Enhanced Prioritization
- Data Management – finalize transition to electronic SMR submittal
- Address groundwater protection challenges
- Environmental Justice
- Continued improvement, openness and transparency

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Although our performance was strong, we know there are certain areas where there is room for improvement. Some of the areas we intend to focus are:

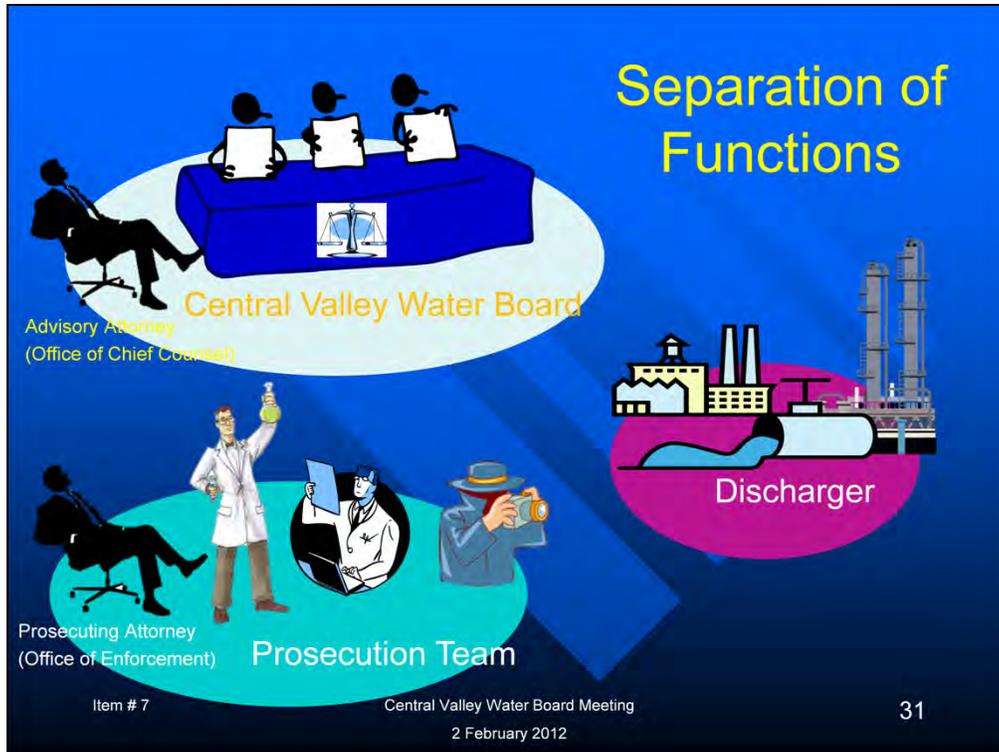
- Continuing our approach of prioritizing our enforcement responses. While the amount of staff time being spent on each case varies, we do have to prioritize our efforts to assure that our enforcement efforts are directed at those dischargers having the most impact on water quality
- Finalizing transition to eSMReporting by enrolling the individual minor NPDES permittees and we envision extending this option also to the WDR dischargers
- Added focus on the emerging programs, such as dairies and irrigated lands, continuing our compliance assistance effort but using the available enforcement tools, if necessary
- Continued focus on the mining sector and pursuing the necessary avenues that will result in significant water quality improvements and controls for runoff from mining sites
- We will also focus our attention on activities to protect groundwater quality, address the salinity and nitrates challenges

An added attention will be dedicated to the Disadvantaged Communities/Environmental Justice aspects of our work. Consistent with the legislative mandates and the Water Boards Strategic Plan we are integrating EJ considerations into our enforcement activities.

We will continue to work with the dischargers that make efforts to maintain an adequate level of compliance and we will not hesitate to take action by using the progressive enforcement approach against those that will attempt to lower their standard.

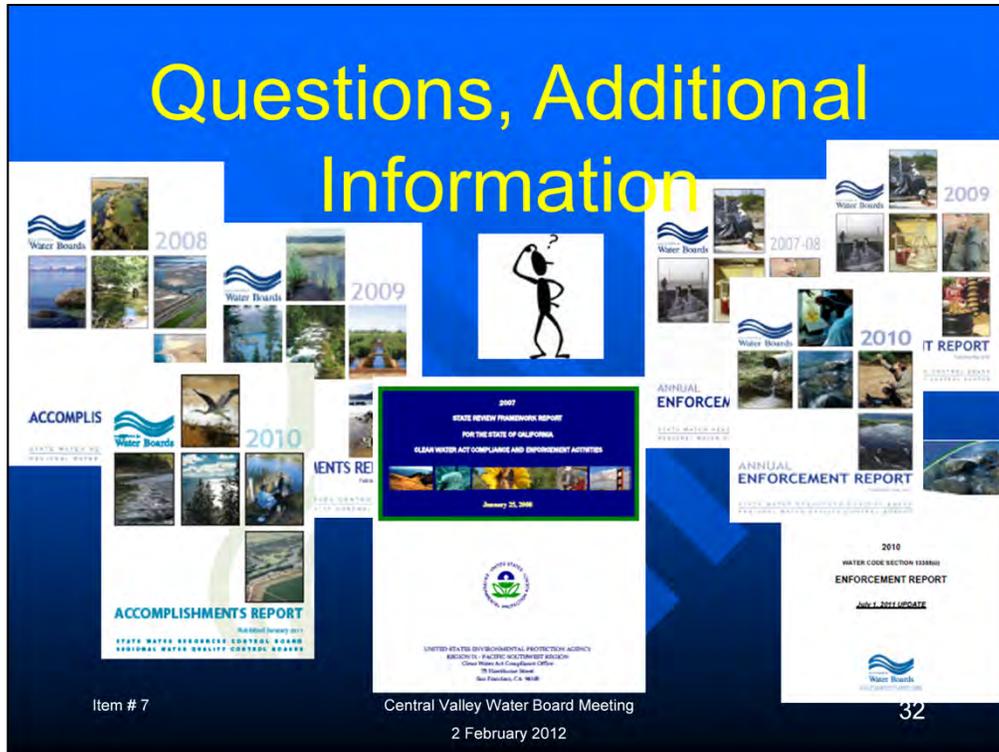
We will continue to strive for firm but fair and balanced enforcement and we will continue to focus our attention on the critical water quality issues confronting our region. We will keep the public aware of our activities and enhance our information dissemination tools.

We welcome your guidance and recommendations, if our strategy is meeting the expectations and goals set out for our region.



Now, I would like to spend a few moments discussing the separation of functions topic. The Board has the obligation to provide an “unbiased tribunal” for all adjudications, but nowhere is this more important than when Board staff prosecute violations of the Water Code or of permit conditions.

To help provide a fair tribunal, the Board separates the staff and attorneys that will prosecute the violations from the staff and attorneys that will provide neutral advice to the Board. For our Board, the Executive Officer is often a member of the Prosecution Team, and serves as the Lead Prosecutor. Attorneys from the State Water Board’s Office of Enforcement advocate on behalf of the Prosecution Team, and attorneys from the Office of Chief Counsel assigned to this region (David, Alex, or Patrick) will provide neutral advice to the Board. The Board will also have neutral technical advisors to help them evaluate the technical arguments made by the Prosecution Team and the Discharger.



In conclusion, I would surmise that our commitment to enforcement activities is strong. Our region continues to be a leader and a top performer in many areas of compliance and enforcement although we face challenges of significant magnitude and complexity.

If there are any inaccuracies in this presentation the responsibility is all mine. There are many sources of information available online and I would encourage you to glance through them as you have time.

I thank you very much for your attention and I am happy to answer any of your questions now and at any time in the future.