

California Regional Water Quality Control Board
Santa Ana Region

May 19, 2000

ITEM: 34

SUBJECT: Executive Officer's Report

DISCUSSION:

- Huntington Beach Closure Investigations** – The Huntington Beach City Administrator and at least one city council member have expressed their belief that the Santa Ana Regional Board has been addressing Huntington Beach stormwater matters in an inadequate manner. On May 4th, Kurt Berchtold, Mark Smythe and I met with Melanie Fallon, Assistant City Administrator for Huntington Beach, legal staff for the City, and a number of other Huntington Beach public works, planning and storm water staff to discuss what Huntington Beach considers to be the inadequacies in the Region's storm water program. The meeting was originally scheduled to include at least one city council member and the City Administrator, but they did not attend.

City staff asked us to explain the difference between the stormwater program at the Santa Ana Region and that of the Los Angeles Regional Board, which requires retention of runoff from new development. We responded that both our staff and City technical staff knew that the main stormwater problems in the Santa Ana Region affecting Huntington Beach were caused by runoff from existing development. We indicated that because of serious staff resource limitations, we did not believe that it would be wise, at this time, to divert staff from addressing known stormwater problems to addressing runoff retention from new developments. Doing so would certainly not help us track down the mechanism responsible for the beach and ocean closures at Huntington.

We mentioned that we understood that the City was considering "suing" the Regional Board to address runoff from new development. We indicated to the City Attorney that the first step in the process should be to petition the Regional Board, and if not satisfied with the Board response, then to appeal the Board's decision to the State Board. I offered to schedule an agenda item for the Board's June 30th meeting where City staff or council members could address this matter with the Board. The Assistant City Administrator recognized the trade-off between finding and eliminating the source or sources of pollutants responsible for closures of their beaches, and taking on the new development issue. It was my impression that the City would likely want the Regional Board to continue its current program, but that they would expect that additional resources for the

stormwater program would provide an opportunity for the Regional Board to consider limitations on new development. We are not sure at this time which approach will be taken by the City when they appear before the Board in June. It is also our understanding that the State Board will soon be holding a hearing in Southern California to receive testimony concerning an appeal of the new development runoff retention requirement recently adopted by the Los Angeles Regional Board.

Huntington Beach staff were also concerned that one or more of the inland cities tributary to Talbert Marsh and the Santa Ana River might decide against participation in a study I ordered pursuant to Water Code Section 13267. Pursuant to Section 13267, I directed Orange County, Huntington Beach and other Orange County cities to develop and implement a plan to attempt to identify the sources of pollutants responsible for beach and ocean closures at Huntington Beach. Huntington Beach staff believed that a city named in the order might decline to support the work undertaken under the lead of Orange County. I pointed out that the Regional Board had already demonstrated a strong enforcement posture relative to compliance with the stormwater program. We told Huntington Beach staff about the civil liability complaints already issued to Beaumont, Perris, and Anaheim for failure to implement various stormwater program requirements. We also mentioned four civil liability complaints (totaling approximately \$300,000) issued to Orange County departments for stormwater and landfill violations. Although public notices are published for these complaints, City staff was unaware of them. They seemed reassured that the study to address their beach closures would be supported by Regional Board enforcement, if necessary.

2. **Administrative Civil Liability Complaint Status** – On March 23, 2000, I issued an Administrative Civil Liability (ACL) Complaint to Orange County Public Facilities and Resources Department for alleged violations of the Orange County Areawide Urban Runoff Permit, Order No. 96-31, NPDES No. CAS 618030. The County is alleged to have discharged approximately 11,000 gallons of polluted water from a storm water pump station to Anaheim Bay.

On February 8, 2000, County employees are alleged to have pumped black, odorous wastewater containing pollutants, from a storm water pump station in Seal Beach into a storm drain on the Seal Beach Naval Weapons Station property. This storm drain empties directly into Anaheim Bay. The proposed assessment was \$50,000 with \$15,000 suspended if the County agreed to provide appropriate training for its employees and the employees of the cities in Orange County to prevent any such occurrences in the future. On April 17, 2000, the County paid \$35,000, agreed to the conditions for suspension of \$15,000, and waived its right to a hearing.

On March 24, 2000, I issued another ACL against Robertson's Ready Mix for alleged violations of the State's General Industrial Activities Storm Water Permit,

Order No. 97-03-DWQ, NPDES No. CAS000001. Robertson's is alleged to have discharged an undetermined quantity of sediment-laden water from its facility in Anaheim to the Santa Ana River.

On December 2 and 28, 1999 and on February 12, 2000, Robertson's Ready Mix facility is alleged to have discharged a large quantity of sediment-laden water. Board staff could collect samples only from the February 12, 2000 discharge. On February 12, 2000 alone, the discharge was estimated to be approximately one million gallons. The proposed assessment was for \$37,800 with \$10,000 of it suspended if Robertson's agreed to develop and implement appropriate pollution control measures and to train its employees. On April 6, 2000, Robertson's paid \$27,800, agreed to the conditions for suspension of \$10,000, and waived its right to a hearing.

3. **Settlement with Kinder Morgan Energy Partners** – Kinder Morgan Energy Partners owns and operates a petroleum storage terminal on Riverside Avenue in Bloomington, as well as pipelines that are tributary to the terminal. In May 1999, Kinder Morgan discharged approximately 2.1 million gallons of water from a hydrostatic test of a pipeline. The discharge entered a tributary of the Santa Ana River. The discharge was observed by staff of San Bernardino County Flood Control, who reported it to Board staff. County staff reported that the discharge was discolored with a strong petroleum odor. Kinder Morgan did not report the discharge. Board staff investigated the incident and concluded that the discharge contained excessive amounts of petroleum and violated the facility's NPDES permit.

Board staff also reported this incident to the San Bernardino County District Attorney's Office. The DA's Office conducted a further investigation of the incident, and Board staff assisted in that investigation. This case was recently concluded when the DA and Kinder Morgan agreed to a Stipulated Judgment, which resolved any potential criminal or civil charges related to the incident. The Board was also a party to this settlement agreement. A copy of the settlement agreement was recently transmitted to you.

Under the terms of the settlement, Kinder Morgan will pay \$150,000 to the State Board's Cleanup and Abatement Account and will reimburse the Board's staff costs for investigating the incident (which were approximately \$100,000). Kinder Morgan will also provide emergency response and surveillance equipment to Board staff, for our future use in investigating similar incidents. The total value of the settlement, including all payments and equipment provided to other agencies, is \$1.5 million.

- 4. Arauz Trucking Company, Manure Cleanup at 22260 Kinney Street, Mead Valley, near Perris** - In the last Executive Officer's Report, I reported that Board staff selected Antonio Herrera Trucking Company (contractor) for removal and cleanup of the manure that had been deposited on this property by Arauz Trucking Company. The excavation and cleanup of the manure began on February 26, 2000. Construction debris and trash that was commingled with the manure had to be manually separated from the manure. The manure was then hauled off by the contractor to cropland near Menifee, and was spread at agronomic rates to the satisfaction of Board staff.

A total of about 5,300 tons of manure were removed from the site and the adjacent drainage channel. The debris and trash that was separated from the manure was left at the site, and the Riverside County Department of Environmental Health Services was notified of the situation.

The manure cleanup was completed on March 23, 2000. The manure cleanup and removal process was regularly overseen by Board staff and was completed to the satisfaction of Board staff. The cleanup was conducted using funds from the State Cleanup and Abatement Account for a total cost of \$35,000.

On November 19, 1999, the Board affirmed Administrative Civil Liability Complaint (Aclc) No. 99-85 for Arauz Trucking Company in the amount of \$99,000. Arauz Trucking Company's attorney filed a petition with the State Water Resources Control Board appealing the ACLC. This petition was dismissed on March 8, 2000. Board staff will be filing a judgement lien with the Court against Arauz Trucking Company in order to secure payment of the ACLC penalty (\$99,000), cleanup cost (\$35,000) and to recover staff costs associated with overseeing the manure cleanup.

- 5. Santa Ana Regional Board Participation in Children's Drinking Water Festival 2000** – Ann Sturdivant, Susan Beeson, and Ed Kashak of Regional Board staff participated in the "Children's Drinking Water Festival 2000" in Irvine on May 2nd and 3rd. Board staff's demonstration was entitled "Water Cops On Duty!" The children attending the festival, from grades 3 through 5, learned about protecting groundwater quality by building a model aquifer and pumping groundwater with a miniature "well." During the demonstration, the children added "polluted" water to the aquifer (just food coloring!) and observed how the contamination could travel to their water well. After this activity, the children participated in a quiz contest, where they received prizes that reminded them of the important water protection concepts they learned.

Board staff's presentation has been extremely well-received by students and teachers over the past 3 years. This is one of our Region's biggest outreach activities, where Board staff can "connect" with up to 350 children each day. The festival expected to draw attendance by 214 classes, from 26 different cities in

the Orange County area. This event is sponsored each year by the Orange County Water District's Groundwater Guardian Team, in conjunction with participation from private industry, universities, and State and local agencies. Attendance at the Drinking Water Festival 2000 was expected to increase by 30% over last year, with a projected turnout of up to 5,800 children, parents/aids, and teachers.

6. **City of Rialto Wastewater Treatment Plant Investigation** – The City of Rialto wastewater treatment plant was recently visited by a team of investigators, led by agents of USEPA's Criminal Investigation Division (CID), supported by Regional Board and State Board staff and members of the San Bernardino County Environmental Crimes Task Force, who served a warrant to obtain evidence regarding possible violations of the federal Clean Water Act. Board staff provided the data to the lead USEPA CID investigator that resulted in the warrant. The discharge from the treatment plant is regulated by waste discharge requirements and an NPDES discharge permit adopted by the Regional Board.

The warrant was served on Thursday, April 20, 2000, and this occurrence was widely reported in local and regional newspapers over the next several days. Some 15 boxes of documents were seized, as were computer files. The newspaper stories included quotes attributed to officials of Operations Management International (OMI), the contract operators of the plant, who told reporters that OMI has initiated their own investigation of possible violations. Those closest to the investigations, including OMI staff of the Rialto plant and the members of the team that served the warrant, have not commented to the press, as the details of the investigation are confidential at this time. We will provide you additional information on this case as it becomes available.

7. **Status of the SWRCB's Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (Policy) and the U.S. EPA's California Toxics Rule (CTR)** – On April 28, the State Office of Administrative Law approved the SWRCB's Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California making it effective immediately for National Toxics Rule (NTR) criteria and basin plan objectives for priority pollutants. Meanwhile, U.S.EPA signed the California Toxics Rule (CTR), which will become effective upon publication in the Federal Register in mid-May. The adopted Policy will be submitted to U.S.EPA for approval. Because the Policy and the CTR will become effective prior to the May 30 effective date of the Alaska Rule, the Policy can be implemented before U.S. EPA approval.

What this means for the Regional Boards is that priority pollutant criteria and objectives must be implemented immediately in applicable, upcoming NPDES permits. The CTR, which carries over the NTR criteria unchanged, will provide

guidance on which basin plan objectives will continue to apply and which will be replaced by CTR criteria. State Board staff will work with Regional Board staff toward full and effective implementation of these water quality standards and the Policy.

The final Policy will be distributed to the Regional Boards and the public in May. Regional Board staff training on the CTR and the Policy is being scheduled for late-June through late-July in Sacramento and Riverside. Additional sessions and locations may be arranged as needed.

Gerard J. Thibeault
Executive Officer