

California Regional Water Quality Control Board
Santa Ana Region

November 17, 2000

ITEM: 24

SUBJECT: Executive Officer's Report

DISCUSSION:

- Suit by Orange County District Attorney's Office Against ARCO and Thrifty Oil** – On October 19th, Tony Rackaukas, District Attorney for Orange County, held a press conference to announce the expansion of a major lawsuit against ARCO and Thrifty Oil Company for violations at gasoline stations in twenty-five cities within Orange County. The complaint alleges operational violations and contamination stemming from releases of gasoline at 116 stations. Contaminants that have been released into the groundwater include benzene, toluene, and MtBE, which causes drinking water to taste like turpentine at very low concentrations. Mr. Ken Williams, Chief of the Underground Storage Tank Unit, participated in the press conference as a panelist to answer questions from media representatives.

The alleged operational violations, which number in the hundreds, include such items as tampering with leak-detection equipment, failure to perform proper maintenance of tanks, and operating faulty monitoring equipment. Potential fines for an operational violation range from \$500 to \$5,000 a day.

According to the complaint, 102 sites (60 involving ARCO and 42 involving Thrifty Oil) have groundwater contamination. Fourteen additional ARCO sites have soil contamination only. Cleanup is underway at all sites, but could take years to complete. Penalties for violating cleanup requirements on each gasoline station can reach \$10,000 per day.

No other District Attorney's office in the State is known to have tackled a case involving so many gasoline stations. The last oil company prosecution in Orange County was very successful, leading to a change in state law. In 1998, Mobil Oil settled a lawsuit for \$1 million for tampering with tank monitoring equipment. As a result, a new law was enacted that allows prosecutors to file such violations as a criminal case rather than as a civil matter. Staff will be following the progress of this case and will advise the Board of significant developments.

2. **Lake Level and Water Quality Stabilization Project for Lake Elsinore –** Regional Board staff continue to be closely involved in efforts by the Elsinore Valley Municipal Water District (EVMWD), the City of Lake Elsinore (City) and others to resolve issues relating to long-term water quality and the restoration of beneficial uses in Lake Elsinore. Board members may recall that Lake Elsinore is subject to significant lake surface evaporation, along with local stormwater runoff volumes (inflow to the Lake) that often do not offset the evaporation losses. In many years, this net loss of water from the lake results in significant drops in the elevation of the Lake surface and the net concentration of pollutants within the Lake. This has significantly affected Lake quality in the past, resulting in algae blooms, depressed levels of dissolved oxygen, severe odor problems and fish kills.

For a number of years, local representatives have explored the possibility of augmenting lake levels with either pumped groundwater or recycled water. On October 31st, staff met with representatives of EVMWD and the City to discuss whether recycled water from Eastern Municipal Water District (EMWD) or poor quality groundwater from basins within the San Jacinto watershed might be discharged into the Lake. There are groundwater basins within the watershed that contain large quantities of poor quality water that are unsuitable for use for agricultural or public water supply purposes, yet would be appropriate for use in augmenting Lake Elsinore (TDS objective of 2,000 mg/l). It is estimated that an augmentation of approximately 15,000 acre-feet per year would be needed to offset evaporation losses. It is not likely that these quantities of water would be available from either recycled water or groundwater sources, but any quantities augmenting the lake would slow the dropping of the lake level and provide some protection of beneficial uses.

Among the topics addressed on the 31st were whether individual waste discharge requirements would be required for the project or whether coverage under a general permit would be appropriate, CEQA compliance, offset requirements, effects on underlying groundwater basins, and early initiation of wetlands operations to generate offset credits for nutrient additions.

3. **Administrative Civil Liability (ACL) Complaints Against Orange County Sanitation District (OCSD) and Standard Pacific Homes –** An ACL complaint against OCSD was issued on October 12th for a sewage spill on June 9th that resulted in a beach closure from the mouth of the San Gabriel River to the Seal Beach Pier from June 9th through June 13th. Approximately 60,000 gallons were spilled and not recovered. The spill was as a result of construction activities on interceptor lines located along Beach Boulevard in the City of La Habra. During some construction work to upgrade an interceptor line, a contractor failed to re-open the line in time to prevent the surcharging of an adjacent line. It is clear that the spill could have been prevented. The ACL was issued in the amount of \$107,500, based, in part, on recreational losses caused by the beach closure.

OCSD has agreed to waive the District's right to a hearing and pay the assessed amount. However, the District has asked staff to consider the suspension of some portion of the assessment in favor of a supplemental environmental project (SEP) that would benefit a local environmental enhancement project that OCSD would not typically be expected or required to fund or financially support. Staff will be meeting with OCSD representatives to explore projects that would further water quality goals within the Region.

On October 27th, an ACL complaint in the amount of \$10,350 was issued against Standard Pacific Homes for the discharge of non-storm water containing pollutants to the Irvine Coast Area of Special Biological Significance (ASBS). This discharge occurred when non-storm water management measures (BMPs) intended to prevent the discharge of non-storm water failed, and approximately 6,000 gallons of waste from washing down the streets in construction areas were discharged to a storm drain system, and thence to the ASBS.

4. **Expansion of Regional Board Offices Into Nearby Annex** – We have previously reported to you about our shortage of office space. When we moved into the California Tower, we had a staff of less than 50. Our current authorized staff level is a bit more than 90, and we currently have 71 permanent staff, 2 retired annuitants and 8 student assistants for a total of 81. While we had space for a few extra staff when we moved into the California Tower, we cannot accommodate our authorized staffing level. We have converted meeting rooms, evidence rooms and equipment and map spaces to temporary office space, and we are also doubling up staff in some instances.

We are pleased to report that new leased space has now been approved and work is underway to ready the space for our occupancy. Sometime during November we expect to begin moving our Inland and Coastal Stormwater Sections and Division Chief Mike Adackapara into the new office space. The annex location is just south of California Tower, directly across University Avenue from our current location. Office space is at a premium in Riverside, and we feel fortunate that we were able to secure office space adjacent to our current location. We expect that 12-15 staff will be moving when the new space is available. This will help ease the overcrowding in our current spaces. We still have a number of Stormwater staff vacancies to fill, and these new staff will also be located in the annex space.

We will continue to pursue additional space within California Tower. Space should be made available for our use, as was the original agreement when we were moved to this location. However, since California Tower is full, another agency would need to move from the building in order for space to be made available for us. There is some expectation that this will happen, but the timeframe might be significant.

5. **New Draft Enforcement Policy** – The current Water Quality Enforcement Policy was adopted by the State Water Resources Control Board in April 1996. That policy was intended to promote consistency in enforcement actions statewide. Despite the existence of that policy, a widespread perception remains that Regional Boards throughout the State are inconsistent in their approach to enforcement. In adopting the Boards' budget for the 1999-2000 fiscal year, the Legislature reacted to that perception. Supplemental budget language adopted by the Legislature required that the State Board convene an Enforcement Order Review Panel (EORP) composed of State and Regional Board members. The purpose of this group is to promote statewide consistency in enforcement. The EORP, chaired by Art Baggett, has held several meetings and made a series of recommendations. One of the group's key recommendations was that the Enforcement Policy should be revised.

To that end, State Board staff, in consultation with a committee of Regional Board staff, has drafted a revised Enforcement Policy. A copy of the draft Policy has been sent to you separately. In addition, the new draft Policy was discussed at the recent WQCC meeting. Board members should be aware that the new draft is significantly more prescriptive than the existing Policy. The current Policy provides general guidance but allows for significant Regional Board discretion. The new draft, consistent with its intent of promoting consistency, would reduce Regional Board discretion by dictating that an enforcement response is necessary for specified types of violations. The new draft also proposes a standard structure for calculating administrative civil liability amounts, although it allows for consideration of site-specific factors to derive appropriate amounts for individual cases.

The State Board will distribute the draft policy for public review and comment in the near future. A public hearing on the draft will be held on January 9, 2001.