

**Addendum 5****REGIONAL BOARD ENFORCEMENT PROGRAM**

At the May 2006 Board meeting staff provided an informational item on the enforcement activities of the Board. During the presentation the Board requested additional information, including:

- Comparison of enforcement PYs allocated per Region<sup>1</sup>
- Tabular data used to develop slides 18-20 of the 5 May 2006 staff presentation
- Estimated actual<sup>2</sup> ACL amounts imposed by Region for FY 04/05 (including breakdown of MMPs vs. discretionary amounts)
- Estimated actual<sup>2</sup> ACL amounts imposed by Region 5 for 2002 - 2005
- The largest ACL issued by a Regional Board

The following provides this information. In addition, this report includes estimates of permitted facilities by Region for the NPDES, WDR and Land Disposal Programs,<sup>3</sup> and Storm Water Program in FY 04/05 to provide a sense of the numbers of dischargers regulated by Region. A copy of the 5 May 2006 presentation has been included at the end of this report.

**Comparison of enforcement PYs allocated per Region**  
(current figures from State Board fiscal database)

As shown below, Region 5 is allocated 20% of the total funding allocated for enforcement activities (21% of the total PYs).

Regional Board	PCA 112 (PYs)	% of Total Distribution	Funds Allocated (\$)	% of Total Distribution
R1 – North Coast	1.0	6.1%	232,746	9.7%
R2 – SF Bay	1.9	11.7%	312,213	13.0%
R3 – Central Coast	1.1	6.7%	135,799	5.7%
R4 – Los Angeles	2.5	15.3%	288,959	12.1%
<b>R5 – Central Valley</b>	<b>3.4</b>	<b>20.9%</b>	<b>468,716</b>	<b>19.6%</b>
R6 – Lahontan	1.5	9.2%	184,234	7.7%
R7 – Colorado River Basin	1.0	6.1%	121,090	5.1%
R8 – Santa Ana	1.2	7.4%	158,134	6.6%
R9 – San Diego	0.9	5.5%	120,803	5.0%
OCC (State Board)	1.8	11.0%	373,637	15.6%
<b>Total</b>	<b>16.3</b>		<b>\$2,396,331</b>	

<sup>1</sup> PCA 112 (enforcement) PYs/funds allocated do not provide a full picture of resources dedicated to enforcement activities. The majority of enforcement work is supported by program budgets. PCA 112 funds supplement enforcement activities in some programs, and support region-wide enforcement work and coordination. For other programs, program funds are used exclusively to support enforcement.

<sup>2</sup> Data presented in May were ACL amounts initially issued; final amounts imposed can vary if cases go to the Board or into the settlement process.

<sup>3</sup> Estimate also includes sites regulated under the CAFO, Cleanup and Underground Tanks Programs that are under NPDES permit or WDRs. This summary was produced from a query of SWIM and the Storm Water Program NOI database. The CAFO, Cleanup and Underground Tanks Programs also regulate a significant number of sites, however these sites were not tracked in SWIM unless they were under permit, and thus are not represented in this summary.

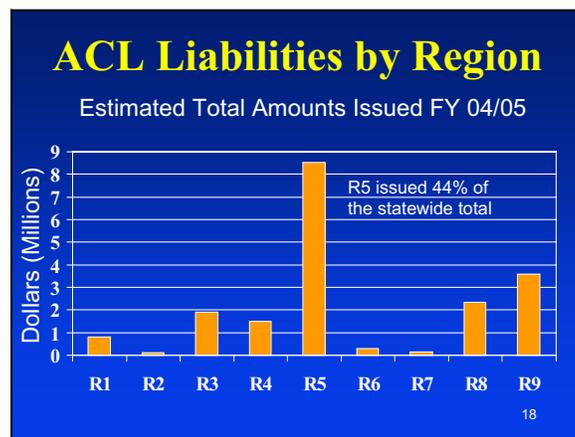
**Estimates of permitted facilities by Region for the core regulatory (NPDES, WDR and Land Disposal Programs) and Storm Water (Construction and Industrial) Programs**

As shown below, Region 5 has issued approximately 30% of all the core regulatory permits issued throughout the state. This summary was produced from a query of SWIM and the Storm Water Program NOI database. The CAFO, Cleanup and Underground Tanks Programs also regulate a significant number of sites, however these sites were not tracked in SWIM unless they were under permit, and thus are not represented in this summary.

Regional Board	Core Regulatory # Permits	% of Statewide Total	Storm Water # Permits		% of Statewide Total	
			Construction	Industrial	Construction	Industrial
R1 – North Coast	520	7%	410	367	2.2%	3.7%
R2 – SF Bay	471	6.3%	1852	1497	9.9%	15.2%
R3 – Central Coast	619	8.3%	769	408	4.1%	4.2%
R4 – Los Angeles	1342	18.1%	2501	2930	13.3%	29.8%
<b>R5 – Central Valley</b>	<b>2207</b>	<b>29.7%</b>	<b>5507</b>	<b>1968</b>	<b>29.3%</b>	<b>20.0%</b>
R6 – Lahontan	524	7.1%	875	203	4.7%	2.1%
R7 – Colorado River Basin	459	6.2%	575	171	3.1%	1.7%
R8 – Santa Ana	801	10.8%	3038	1543	16.2%	15.7%
R9 – San Diego	476	6.4%	3242	735	17.3%	7.5%
<b>Total</b>	<b>7,419</b>		<b>18,769</b>	<b>9,822</b>		

**Estimates of ACLs issued by Regional Board (Slide 18)**

These estimates are based on FY 04/05 data.

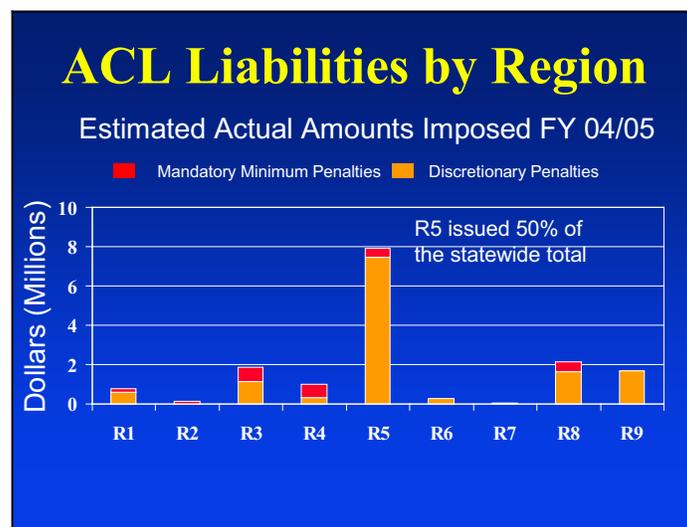


Region 5 issued 44% of the ACL liability amounts issued in the state. Estimated total amounts include ACL complaints and ACL orders, mandatory minimum penalties (MMPs) and discretionary penalties. The metric used to determine the percentage is the amount issued. Once issued, amounts can go up or down if the case goes to the Board or into the settlement process. Also, some amounts are applied to supplemental environmental projects or compliance projects. Therefore, the values shown above do not represent amounts collected, but is a measure of work being done using this enforcement mechanism. Data used to develop the above graph are shown in the table below.

Regional Board	ACL Liabilities Issued
R1 – North Coast	\$790,000
R2 – SF Bay	\$130,000
R3 – Central Coast	\$1,920,000
R4 – Los Angeles	\$1,500,000
<b>R5 – Central Valley</b>	<b>\$8,540,000</b>
R6 – Lahontan	\$290,000
R7 – Colorado River Basin	\$130,000
R8 – Santa Ana	\$2,360,000
R9 – San Diego	\$3,600,000
<b>Total</b>	<b>\$19,260,000</b>

**Estimated actual ACL amounts imposed by Region for FY 04/05  
(including breakdown of MMPs vs. discretionary amounts)**

The following graph provides an estimate of the actual liabilities imposed for ACL liabilities issued in FY 04/05.



The following table provides the data used to develop the above graph.

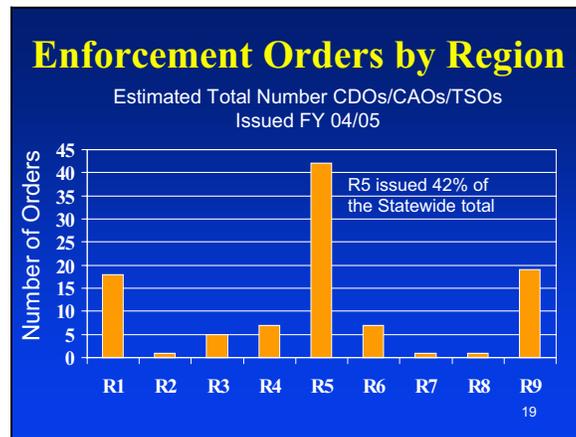
Regional Board	Discretionary Penalties Imposed	Mandatory Minimum Penalties Imposed	Total Penalties Imposed
R1 – North Coast	\$607,850	\$183,300	\$791,150
R2 – SF Bay	\$8,000	\$118,500	\$126,500
R3 – Central Coast	\$1,151,500	\$694,500	\$1,846,000
R4 – Los Angeles	\$296,820	\$715,500	\$1,012,320
<b>R5 – Central Valley</b>	<b>\$7,468,100</b>	<b>\$453,500</b>	<b>\$7,921,600</b>
R6 – Lahontan	\$291,000	\$0	\$291,000
R7 – Colorado River Basin	\$50,000	\$18,000	\$68,000
R8 – Santa Ana	\$1,630,697	\$527,500	\$2,158,197
R9 – San Diego	\$1,661,700	\$33,000	\$1,694,700
<b>Statewide Total</b>	<b>\$13,165,667</b>	<b>\$2,743,800</b>	<b>\$15,909,467</b>

In summary, R5 imposed 57% of the discretionary ACL penalties and 17% of the MMPs imposed statewide. This accounts for approximately 50% of all of the liabilities imposed for the entire state.

	Discretionary	MMP	All ACL Penalties
Region 5 % of Statewide Total	56.7 %	16.5% <sup>4</sup>	49.8%

**Enforcement orders by Regional Board (Slide 19)**

The following graph summarizes the enforcement orders issued throughout the state for FY 04/05.



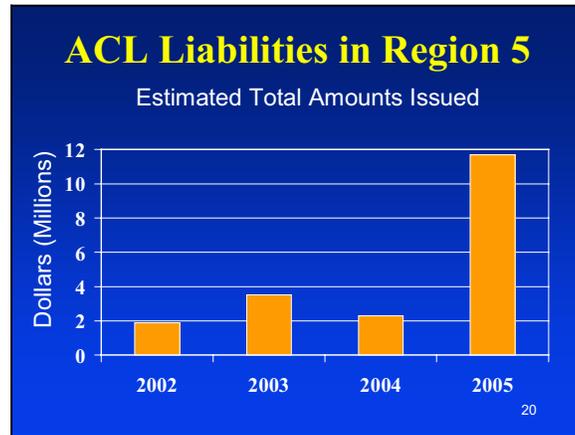
R5 issued **42%** of all Cleanup and Abatement, Cease and Desist, and Time Schedule Orders issued statewide. The following table summarizes the data used to develop the above graph.

Regional Board	Number of Enforcement Orders Issued
R1 – North Coast	18
R2 – SF Bay	1
R3 – Central Coast	5
R4 – Los Angeles	7
<b>R5 – Central Valley</b>	<b>42</b>
R6 – Lahontan	7
R7 – Colorado River Basin	1
R8 – Santa Ana	1
R9 – San Diego	19
<b>Total</b>	<b>101</b>

<sup>4</sup> Several significant MMP ACLs were issued by Region 5 in FY 05/06 and it is anticipated that this ratio will increase, however FY 05/06 data is not currently available for all Regions, thus preventing cross-region comparisons at this time. Further, at least \$0.5 million in MMP ACLs are currently under development.

**ACL liabilities issued in Region 5 between 2002 and 2005 (Slide 20)**

Estimated total amounts include ACL complaints and ACL orders, mandatory minimum penalties (MMPs) and discretionary penalties.



In 2005, \$11.5 million in penalties were issued.

Even if the amount issued to Hilmar (\$ 4 million) is subtracted, the total in 2005 is more than double what was issued in 2003 (the next highest year). The number of complaints and orders issued has not increased significantly, but penalty amounts have increased.

We don't judge our success by the amount of penalties we issue. Our goal is compliance and protection of water quality. But as we work with dischargers to achieve compliance under the progressive enforcement policy, it needs to be clear that if compliance issues are not resolved in a timely manner at the lower levels of enforcement, this Board is prepared to respond in the manner necessary to ensure compliance and protect water quality. In some cases this means issuing penalties, and sometimes significant ones, to get a discharger's attention.

A few other points to consider:

- the bigger the case, the more time they take and the fewer we can do
- in some situations, a few larger cases can have the greatest impact in deterring would be violators within the given program and industry
- in others, we may want to consider a higher number of smaller cases – if we only address large scale dischargers, smaller ones may come to believe they will be able to fly under the radar and they won't face consequences for noncompliance
- and we must always factor in addressing the threat to water quality

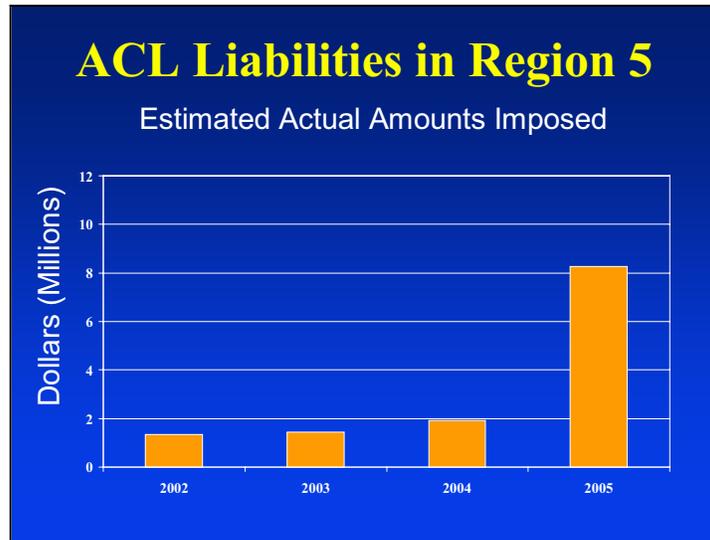
The bottom line: with each program and industry, and there may be regional differences as well, we need to assess how to achieve the greatest impact in terms of protecting water quality and achieving compliance. Also, in balancing resources across programs, from a program integrity perspective, we must have some level of enforcement in all of our programs.

The following table summarizes the data used to develop the graph above.

Year:	2002	2003	2004	2005
ACL Liabilities Issued:	\$1,900,000	\$3,500,000	\$2,300,000	\$11,700,000

### Estimated actual ACL amounts imposed by Region 5 between 2002 - 2005

The following illustrates the actual liabilities imposed by the Board between 2002 and 2005. There was significant increase in activity in 2005. Excluding the \$3 million imposed on Hilmar in 2005, the amount of ACL penalties imposed in 2005 was a 274% increase over the amounts imposed in 2004.



The following table summarizes the data used to develop the above graph.

Year:	2002	2003	2004	2005
ACL Liabilities Imposed:	\$1,356,400	\$1,454,000	\$1,920,000	\$8,268,312

### Largest ACL issued by a Regional Board

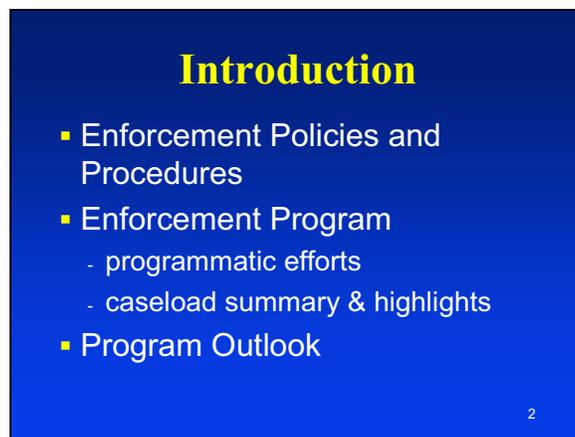
When Region 5 issued the \$4 million ACL complaint against Hilmar in January 2005, it was the largest ACL issued in Water Board history. Subsequently, Region 3 issued an ACL complaint against Los Osos Community Services District and Los Osos Wastewater Project in October 2005 in the amount of \$11 million. The Region 3 Board reduced the ACL in January 2006 to \$6,627,000 (ACL Order No. R3-2005-0137).

**5 May 2006 presentation (with talking points)**

Slide 1



Slide 2



Good morning Mr. Chairman, members of the Board. My name is Kelly Briggs. I am an Environmental Scientist with the Regional Board's Sacramento office. The Regional Board takes very seriously its responsibility to implement water quality laws, plans and policies to protect public health and the environment. As a public agency, it also committed to transparency in process. In January 2005, the Board directed staff to prepare a written report evaluating the enforcement and communication policies and procedures. This was presented at the March 2005 Regional Board meeting. As a part of the evaluation process, actions were identified that could improve our enforcement efforts.

This staff report is to serve as a review of enforcement policies and the tools available to the Board to protect water quality and ensure compliance with water quality laws, plans, policies, and orders of this Board; and to provide the Board a status report on enforcement program activities and accomplishments.

## Slide 3

**Introduction (cont.)**

- Governor's Action Plan for the Environment
- Cal/EPA Enforcement Assessment
  - Measure enforcement results, not activities Focus on:
    - Increasing compliance rates
    - Reducing risks to the environment
    - Better data analysis and information availability
  - Increased training for detection and referral of possible criminal violations to law enforcement agencies

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The Regional Board has a strong policy with respect to enforcement. In addition, the Governor, Cal/EPA, and the State Board support strong enforcement. For example, the Governor's Action Plan for the Environment provides:

Strict law enforcement is vital to assure environmental protection, prevent polluters from achieving unfair competitive advantage against complying competitors, send a message of public values, and establish conditions conducive to creativity and participation in voluntary initiatives.

The Deputy Secretary for Law Enforcement and Counsel with Cal/EPA in November 2004, addressed the Management Coordinating Committee for the Water Boards on enforcement matters, and presented a Cal/EPA survey on enforcement conducted by the Boards, Departments and Offices. Some of the findings included:

Strengths – the 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.

Recommended areas to address – ***summarized in slide bullets.***

## Slide 4

**Introduction (cont.)**

- Cal/EPA Enforcement Assessment (cont.)
  - Increase our field presence
  - Improve interagency coordination and communication
- Cal/EPA Enforcement Initiative
- 2005 Water Board Enforcement Plan

4

In November 2004, Cal/EPA also issued the Enforcement Initiative that sets forth a series of administrative improvements to implement the Governor's Action Plan and to improve the results of enforcement efforts throughout all of the Cal/EPA Board, Departments and Offices. The 2005 Water Board Enforcement Plan was developed to implement the Cal/EPA Enforcement Initiative at the Water Boards and to improve our enforcement efforts.

I will summarize our recent enforcement efforts from programmatic and caseload perspectives, but first I will review Water Board enforcement policies and the enforcement tools the California Water Code provides the Board to ensure compliance.

Slide 5

## Regional Water Quality Control Boards – What Do We Do?

- Planning
- Regulation
    - permitting
    - SMR review
    - compliance inspections
    - complaint investigation
  - Enforcement
    - informal
    - formal



5

The foremost responsibility of the Regional Boards is to implement water quality laws, plans and policies to protect public health and the environment. Primary functions include planning, regulation and enforcement.

Planning was discussed at the last Board meeting in the Triennial Review.

Regulation involves issuance of permits and waivers, review of discharger self-monitoring reports, compliance inspections, and complaint investigations.

When we discover violations, we take enforcement action to bring the discharger back into compliance. This can be informal or formal, depending upon the facts and circumstances.

Slide 6

## Examples of Discharges Regulated

- Waste discharges to surface waters or land
  - waste water treatment plants
  - industrial operations
  - agriculture
- Storm water discharges
- Underground storage tanks
- Landfills
- Mining waste
- Spills and leaks of waste, site cleanup (including Brownfields sites)

6

## Slide 7

## Basis for Enforcement

- WDRs, NPDES permits and waivers
  - prohibitions
  - effluent and receiving water limits
  - task schedules & other requirements
  - monitoring requirements
- Basin Plans
  - water quality objectives
  - prohibitions

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Basin plans contain water quality objectives, prohibitions and other requirements that must be met, even in the absence of a permit, and if not met also form the basis for enforcement.

## Slide 8

## Why Enforce?

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



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## Slide 9

## Enforcement Goals

- Protect public health and the environment
- Protect water quality
- Prevent pollution & nuisance
- Promote prompt cleanup of existing pollution

9

Slide 10



**Enforcement Goals (cont.)**

- Deterrence
- Level playing field
- Compensatory measure for environmental damage
- Assure compliance

10

Level playing field – by this we mean that dischargers not complying should not gain unfair economic advantage over those complying.

Slide 11



**How Do We Enforce?**

Progressive Enforcement:

- Begin at the appropriate level
- Low level enforcement works for most dischargers, and is most cost effective
- Escalate for continued non-compliance
- Start at higher level for particularly egregious violations

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The State Board has set forth of policy of progressive enforcement.

We escalate to more significant actions if compliance is not achieved at the lower levels of enforcement.

## Slide 12

### Enforcement Steps

- Identify violation
  - self monitoring reports
  - compliance inspections
  - public complaints
  - reported spill or release
  - impaired beneficial uses (e.g., polluted drinking water well, dead fish, high salt concentrations)
- Decide who should enforce

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**1. Discover violation**

**2. Decide who should enforce** – this is where interagency coordination comes into play, as well as Environmental Task Forces. Depending upon the facts and circumstances of a given case, other agencies (e.g., the Department of Fish and Game, county environmental health departments, US EPA, the Department of Toxic Substances Control) may need to be involved, and in fact may more appropriately be the lead agency. Additionally, if there are potential criminal aspects to a case, appropriate law enforcement agencies need to be involved (e.g., county district attorney offices, the Attorney General's Office, or US Attorney's office).

## Slide 13

### Enforcement Steps (cont.)

- Choose enforcement action
  - Determine relative priority
  - Factors
    - evidence or threat of pollution or nuisance
    - magnitude or impacts of the violation
    - potential to cleanup and abate effects of pollution
    - evidence of negligence or recalcitrance
    - applicability of mandatory minimum penalty provisions of the Water Code
    - mitigating factors, including discharger compliance history, and good faith efforts to comply
  - Management and Legal Review
- Take action

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**3. Choose the appropriate action** - a relative **priority** needs to be attached to violations when they are discovered so resources can be properly directed to address violations with appropriate enforcement responses. Resources are limited, thus the Regional Board must continually balance the need to complete non-enforcement tasks with the need to address violations. Within resources available for enforcement, the Regional Board must then balance the importance and impact of each potential enforcement action with the cost of that action.

**An important point needs to be made relative to enforcement and costs: just because resources are limited does not mean we won't enforce where we need to, but it does mean we must make careful decisions to use our enforcement resources in the most wise, efficient and effective manner.**

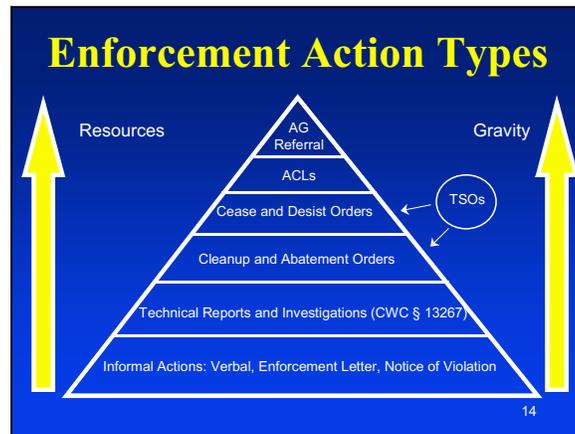
The State Board Water Quality Enforcement Policy provides **criteria or factors** to consider in selecting relative priority for violations. Some of these include - **summarized in slide bullets**.

The Enforcement Policy also identifies certain types of violations as categorically "high priority" (e.g., specific NPDES permit violations, violations of discharge prohibitions, violations of compliance schedules, and falsifying information, to name just a few).

When an appropriate action is chosen, it goes to **Executive Management and Legal for review, direction and approval.**

#### 4. Then actions are taken.

Slide 14



This slide is a simplistic depiction of what is a complex process. Here are the points it was designed to convey:

**First point – progressive enforcement.** Generally we start at a lower or informal level (this is consistent with the Enforcement Policy, 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 higher up in the pyramid.

**Second point – staff resources.** The higher up the pyramid you go, the greater the amount of staff time and resources it will take to develop and manage the case.

**Third point – the base of the pyramid reflects the category of enforcement where we take the greatest number of actions.** This is informal enforcement. Staff spends a significant amount of time conducting informal enforcement (it's cost effective and effective), but in general these activities are not comprehensively tracked in the data system. So this part of the enforcement story is not easily quantified. In general, there are progressively fewer actions in quantity as you move higher up the pyramid.

**Fourth point – look at the available tools shown here.** The California Water Code is powerful and well crafted in that it provides a wide variety of tools to the Regional Board for addressing the wide variety of violations and 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.

## Slide 15

**Enforcement Action Types**

- Informal Actions
- Water Code section 13267 Orders
- Cleanup and Abatement Orders
- Cease and Desist Orders
- Time Schedule Orders
- Administrative Civil Liability
- AG Referral

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**Informal actions** include verbal communications by staff, written communications (staff enforcement letters) and notices of violation.

The rest of the actions identified are in the California Water Code (Water Code) and are enforceable orders.

#### **Water Code section 13267 Orders**

The Regional Board may require dischargers to furnish, on request, under penalty of perjury, technical or monitoring program reports that the Regional Board may require to investigate and ensure water quality is protected.

#### **Cleanup and Abatement Orders**

Cleanup and Abatement Orders (CAOs) are issued under authority of Water Code section 13304, and require abatement of discharge and/or a particular cleanup action by a discharger forthwith or by a specified date, and may require submittal of appropriate reports. CAOs are either issued by the Board, or by the Executive Officer under delegation from the Board pursuant to Water Code section 13223. Executive Officer-issued CAOs are used when speed is important, such as when a major spill or upset has occurred and waiting until the Board can meet to approve a CAO would be inappropriate.

#### **Cease and Desist Orders**

Cease and Desist Orders (CDOs) are generally adopted to regulate dischargers with chronic noncompliance problems. These problems are rarely amenable to a short-term solution. Often, compliance involves extensive capital improvements or operational changes to a facility or site. The Board, under authority contained in Water Code sections 13301 thru 13303, adopts CDOs in a public meeting. They order compliance within specified time limits, and in the event of a threatened violation, require that appropriate remedial or preventative action be taken.

#### **Water Code section 13308 Time Schedule Orders**

The Board may issue a Water Code section 13308 Time Schedule Order (TSO) if there is a threatened or continuing violation of a CAO, CDO, or any order issued under Water Code sections 13267 or 13383. TSOs provide dischargers with time schedules and prescribe specified ACL amounts should compliance not be achieved by the time schedule. TSOs are not used as commonly as some of the other enforcement tools available to the Board (which also include enforceable schedules).

#### **Administrative Civil Liability**

Several sections of the Water Code authorize the Regional Board to impose Administrative Civil Liabilities (ACLs) to address past violations. Sometimes, a fine is what is necessary to get a discharger's attention and bring about compliance. The Water Code authorizes the Executive Officer to issue an ACL Complaint, or ACLs Orders can be adopted by the Board in a public meeting. If the underlying problem has not been corrected, the ACL action should be accompanied by an order to compel future work by the discharger (e.g., a CAO or CDO).

#### **AG Referral**

In addition to issuing ACLs, the Regional Board may refer cases to the Attorney General for recovery of civil monetary remedies in judicial actions, and can also seek injunctive relief.

In some cases, we coordinate with county district attorney offices, the US Attorney's Office, the US EPA, and other agencies through Environmental Task Forces to address civil & criminal matters.

Slide 16

### Program Efforts

- Water Board Enforcement Plan:
  - prioritization
  - complaint tracking
  - compliance evaluation inspections
  - enforceable permits

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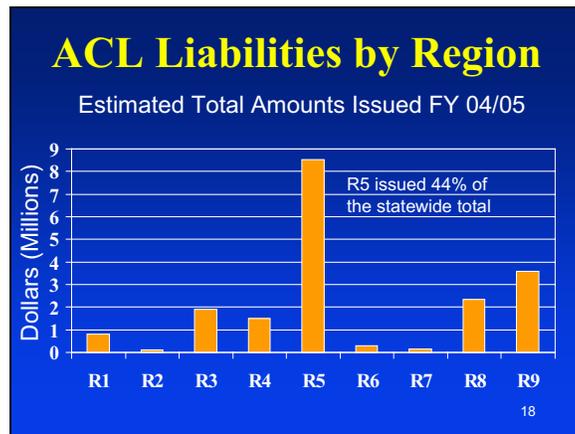
Slide 17

### Program Efforts (cont.)

- Data management
- NPDES permit standardization
- Leveraging efforts

17

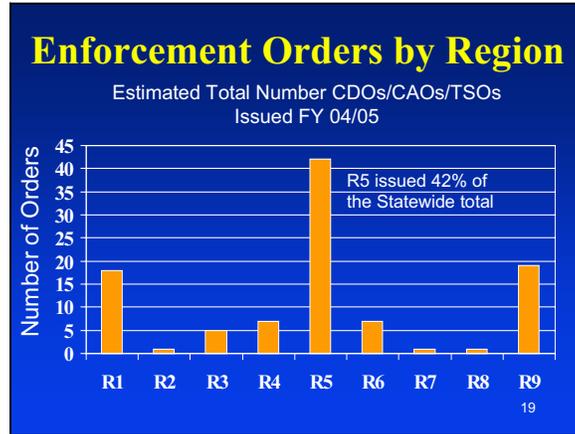
Slide 18



FY 04/05: R5 issued **44%** of ACL liability amounts issued in the State.

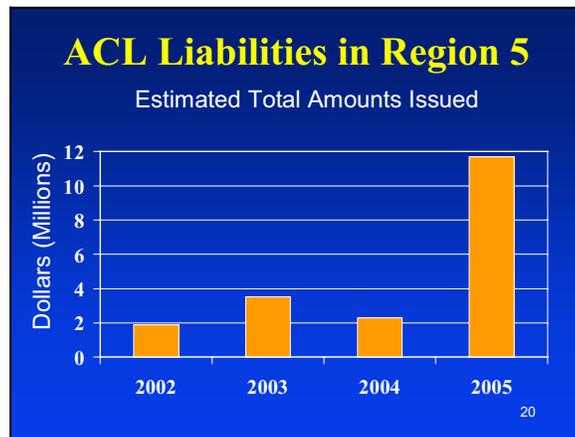
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Slide 19



FY 04/05:  
R5 issued **42%** of all Cleanup and Abatement, Cease and Desist, and Time Schedule Orders issued in the state.

Slide 20



Estimated total amounts include ACL complaints and ACL orders, mandatory minimum penalties (MMPs) and discretionary penalties.

2005 - \$11.5 million in penalties were issued.

Even if the amount issued in Hilmar is subtracted (\$ 4 million), the total in 2005 is still more than double what was issued in 2003 (the next highest year).

The number of complaints and orders issued has not increased significantly, but penalty amounts have increased.

We don't judge our success by the amount of penalties we issue – our goal is compliance and protection of water quality. But as we work with dischargers to achieve compliance under the progressive enforcement policy, it needs to be clear that if compliance issues are not resolved in a timely manner at the lower levels of enforcement, this Board is prepared to respond in the manner necessary to ensure compliance and protect water quality. In some cases this means issuing penalties, and sometimes significant ones, to get a discharger's attention.

A few other points to consider:

- the bigger the case, the more time they take and the fewer we can do

- in some situations, a few larger cases can have the greatest impact in deterring would be violators within the given program and industry
- in others, we may want to consider a higher number of smaller cases – if we only address large scale dischargers, smaller ones may come to believe they will be able to fly under the radar and they won't face consequences for noncompliance
- and we must always factor in addressing the threat to water quality

Bottom line – with each program and industry, and there may be regional differences as well, we need to assess how to achieve the greatest impact in terms of protecting water quality and achieving compliance. Also, in balancing resources across programs, from a program integrity perspective, we must have some level of enforcement in all of our programs.

Slide 21



**Storm Water Program –  
Construction General Permit**

- Firm enforcement
- Industry awareness
- Compliance support and assurance

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The Storm Water Program oversees a significant number of sites – approximately **4000** under the Construction general permit alone. Construction projects are generally short in duration and dischargers must come into compliance quickly or we will move to enforcement actions. It is not unusual to require compliance within two week time periods – which is not unreasonable given that best management practices (BMPs) are fairly low tech and can be implemented quickly.

We have taken a firm enforcement stance with this program and have seen significant changes in the industry

Also, according to the **FY 04/05 enforcement data**, the Central Valley Region issued **over 40%** of total amount issued statewide in ACL penalties in the Construction Storm Water Program.

We have been aggressively outreaching to developers, construction operators and municipalities regarding the requirements of the Storm Water Program and our Enforcement Policy. During FY04/05, staff participated in over 20 outreach events to discuss the storm water requirements, staff expectations at construction sites in terms of necessary storm water BMPs, and our added focus on enforcement. This work includes providing on-site training to construction crews on BMPs and consequences for failures implement an effective combination of BMPs.

We have also been working with our Phase II or small permitted municipalities on developing their own construction storm water enforcement programs and have been leveraging their help in getting compliance with the Construction General Permit. The local municipalities help us identify the construction sites with the highest threat to water quality and help us track the status of those sites once they have been identified to be a risk to water quality.

Slide 22



**2003 construction storm water case**

At the time, this was the largest construction storm water case the Region had ever dealt with.

This was a large site, with over half of the 500 acres denuded. It was being improperly managed and the violations were egregious in nature. These flat areas with no BMPs represent a majority of the site. This photo demonstrates that there was not an effective combination of erosion and sediment control. Violations were discovered in early Dec 2002 and an NOV was issued. Additional inspections revealed additional violations. An ACL complaint was issued by the Executive Officer for \$571,000 in early 2003. The case was ultimately referred to the Attorney General and was settled in 2005.

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Here is an additional view where you can see that the lack of erosion control led to failure of other BMPs (Dec. 2002).

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Here is an example of what could have been done. This is a picture from the fall of 2003 showing widespread use of straw at the site, a BMP that was not implemented on graded areas the previous rainy season.

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**Grizzly Ranch Development ACL**

ACL Complaint Issued for \$600,000 in September 2005

Exposed Site In Winter

Discharger responded swiftly:

- Complaint resolved and paid in October 2005
- Implemented Best Management Practices

WQ Impact (To Salmon Spawning Stream)

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**Grizzly Ranch Development ACL**

\$575,000 Paid into Cleanup and Abatement Account

Site stabilized and no longer impacting water quality

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In this case, the discharger stepped up immediately, made site improvements and resolved the ACL complaint in a matter of months, rather than years.

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## Program Outlook

- Program structure
  - increase efficiency
  - improve consistency
- Data management
- Improve process/procedures
  - library of model template orders
  - update Office Procedures Manual
  - staff training
- Cal/EPA Enforcement Initiative/Water Board Enforcement Plan
- Leverage resources

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## Questions/Comments



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