

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF MAY 28, 2020

Prepared on May 7, 2020

ITEM NUMBER: 10

SUBJECT: Executive Officer's Report to the Board

STAFF CONTACTS:

Matthew T. Keeling 805/549-3140, matt.keeling@waterboards.ca.gov

ACTION: Information / Discussion

KEY INFORMATION This item presents a brief discussion of issues that may interest the Board. Upon request, staff can provide more detailed information about any item.

COVID-19 RESPONSE AND ADAPTATION UPDATE

The COVID-19 pandemic has resulted in an unprecedented response and adaptation effort around the globe to flatten the virus transmission curve and save lives. Nearly everyone has been affected in one way or another due to social distancing, shelter-in-place, and business closure orders resulting in significant social and economic disruption cutting across all facets of our local, regional, national, and global culture, including the functions of the California Environmental Protection Agency (CalEPA) and Water Boards.

Water Board functions (as part of the broader CalEPA mission to restore, protect and enhance the environment, to ensure public health, environmental quality and economic vitality) are designated as or support essential critical infrastructure and workforce jobs during the COVID-19 crisis. Water Board programs primarily cut across three of the state's 13 critical sector categories: health care and public health, water and wastewater, and hazardous materials. As an essential government program, the Water Boards are also required to regulate the functions of other critical infrastructure and workforce jobs. Consequently, the Water Boards have been required to maintain its essential functions during the COVID-19 crisis while also complying with social distancing and shelter-in-place requirements. This has resulted in an unprecedented shift in business operations towards agency-wide teleworking and remote public meetings as well as changes in how we prioritize and do our work, and how we do business with regulated entities, stakeholders, and agency partners. The uncertain and dynamic nature of the COVID-19 crisis and the resulting economic implications will likely result in the ongoing need for the Water Boards to remain nimble and may result in long lasting changes to our business functions in both positive and not so positive ways.

Statewide Water Board Telework Response

Staff exhibited and are continuing to exhibit strength, flexibility, and adaptability in response to the very rapid and disruptive telework rollout. In response to the agency-wide telework directive on the evening of Sunday March 15th the Central Coast Water Board management team initiated communication with all staff to mobilize our office-wide telework rollout first thing the following Monday morning resulting in nearly 100 percent of staff working from home with varying functionality within two to three days. The following weeks were focused on increasing staff telework connectivity and functionality through the distribution of additional laptops and the rollout of remote virtual desktop applications, along with developing and implementing daily and weekly individual staff telework plans to identify and track priority work.

Although our office is fully functional via telework, individual programs are subject to varying levels of decreased productivity due to IT equipment and connectivity issues, home office ergonomic issues, and childcare needs due to school, daycare and camp closures. Resources are also being redirected to COVID-19 related administrative tracking and reporting, including: Executive Management coordination calls (daily for first several weeks; now twice per week), daily office staffing reports and COVID related absence tracking, COVID related work tracking, telework plan development and implementation, processing and tracking requirement extension requests, additional personnel tracking associated with staff taking leave for childcare, etc. In addition, some work is more conducive to teleworking and staff have varying functional capacities in more secluded telework environments versus more social office workplace environments (e.g., introverts versus extroverts). The physical and psychological stresses of the pandemic along with uncertainty regarding what is coming next can be taxing, requiring us to remain positive, focused and effective as an organization.

Inspections and Field Work

Although the Water Boards are able to implement most of its work remotely from at home telework offices, some of our essential functions may require staff to work in the field. Inspections are a necessary function of the Water Boards to ensure various types of facilities, including wastewater and drinking water treatment plants, are meeting regulatory requirements. However, during this public health emergency, exposure of Water Board staff or the regulated community to COVID-19 is of the utmost concern. Therefore, inspections have been curtailed based on relative risk in accordance with CalEPA and State Board guidance. Inspections are subject to prior discussion with the management team to determine the relative need versus risks and there hasn't been a high-priority need for staff to conduct inspections since the statewide shelter-in-place order was issued. Emergency response inspections/site visits and inspections assessing potential violations posing an immediate and substantial threat to public health and safety and/or the environment (Class A violations as defined in the Water Quality Enforcement Policy) are a high priority. Inspections assessing all other potential violations (Class B violations as defined in the Water Quality Enforcement Policy) and routine compliance and pre-permitting inspections are a lower priority. Inspections will be triaged and prioritized in relation to COVID-19 risk factors and only conducted if they

can be performed in compliance with current governmental directives and safety guidelines related to COVID-19.

Staff are encouraged to use all available tools to assess facility compliance through a remote review process when possible. This may include review of available permittee submittals (e.g., self-monitoring reports, lab reports, effluent data, facility plans, drive by inspection, etc.), telephone/videoconference interviews with facility staff, email/written communication for additional information, or some combination of the foregoing. This may help assess the need for future field inspections or further enforcement action.

To ensure we comply with shelter-in-place and social distancing requirements to keep our staff safe during the COVID-19 crisis we've temporarily suspended our regional domestic well testing and surface water monitoring programs. Although these are very important functions, we are unable to implement them without putting our staff at risk by either having them travel alone or together as is customary. On a related note, the emergency bottled water programs in our region are still fully functional and we receive implementation updates every two weeks to ensure deliveries continue.

Regulatory Oversight Considerations

The various public and private entities we regulate are also subject to the unprecedented constraints and forced business functionality limitations and changes associated with COVID-19 social distancing and shelter-in place requirements. This is resulting in the need to approve and track reasonable extensions for various regulatory requirements such as the implementation of water quality monitoring requirements, submittal of technical reports, implementation of management practices, etc. It also results in the need to modify and extend various Water Board processes, such as extending the public comment period for the draft Agricultural 4.0 Order.

Our staff are participating in an agency-wide effort to develop consistent statewide criteria and tracking for the extension of Water Board regulatory requirements and processes. As of May 8th, we have received and processed 31 requests for the extension of various requirements within our region. These requests are associated with our site cleanup, underground storage tank, waste discharge requirements, National Pollutant Discharge Elimination System, stormwater, and 401 certification programs. The extensions are based on agreed upon statewide risk-based criteria and extension time frames for specific types of requirements.

In addition to approving extensions for regulatory requirements, we have extended the public comment period for our draft Agricultural Order 4.0 until June 20th (sixty-day extension per statewide COVID-19 extension guidance) based on the following considerations with a focus on ensuring the implementation of a fair and effective public process for the development of Ag Order 4.0:

1. The difficulty of key stakeholders, particularly growers and agricultural service providers identified as critical essential infrastructure and workforce jobs, to participate in a public process while focusing on maintaining food production with additional layers of COVID-19 related food safety requirements, labor shortages and supply chain issues, and

2. The need for staff to develop alternative remote meeting capabilities and strategies to effectively implement draft Ag Order 4.0 informational workshops and Board meetings.

The Water Boards regulate public and private entities and various activities that are also identified as critical infrastructure and workforce jobs such as municipalities providing drinking water and wastewater services and agriculture as noted above. This creates tension between implementing our essential functions and allowing regulated entities to implement their essential functions while also having to implement new COVID-19 related functions and comply with Water Board requirements. For example, local agencies such as cities and counties are developing and implementing COVID-19 emergency response activities such as setting up emergency hospitals, providing additional social and public health services, enforcing COVID-19 business closures, etc. These essential emergency response activities require shifting resources away from some of the normal essential functions we regulate. This requires us to implement an additional balancing test that considers broader COVID-19 related priorities with respect to how we engage with regulated entities and individuals.

Economic Implications

The Department of Finance (DOF) is currently undertaking a comprehensive budget review of all statewide agencies, boards, divisions and offices in anticipation of a COVID-19 induced recession resulting in decreases in tax revenues and program fees and increases in safety net program expenditures. Based on preliminary DOF analyses, on Wednesday, May 6th, the Governor announced an estimated \$54.6 billion shortfall in state funding. Consequently, DOF issued an April 30th, budget directive letter for all state agencies to reduce expenditures associated with hiring, goods and services contracts, travel, etc.

Consequently, the Water Boards are currently subject to a “soft” hiring freeze until DOF completes its budget analysis. State Board authorized us to proceed with filling two vacancies in April. One has been filled with an external candidate that will start in July and the other was filled with an internal staff rotation resulting in another vacancy within a different program that we may not be able to fill. We currently have seven vacancies and four pending retirements later this year and it is currently uncertain how many of these vacancies we will be able to fill in the coming months. Three of the vacancies are within the Cannabis Program that are subject to previous funding constraints associated with an ongoing permit enrollment fee imbalance and one is for Thea Tryon’s former section manager position; we’ve reallocated the programs Thea formerly oversaw to the other section managers and she is currently retaining oversight of the Enforcement Program. In the interim, we’ve been authorized to proceed with the hiring process for these vacancies, with the exception of the cannabis positions, up to the point of making an offer. We are proceeding with the hiring process for some vacancies based on a prioritized approach in coordination with State Board so we are poised to fill positions as may be allowable. This situation is very fluid and uncertain and at this point in time we are looking at a potential 13.5 percent decrease in our permanent staff workforce - not including part time student assistants and scientific aids of which we currently have nine

- if we are not able to fill these vacancies. Our focus moving forward will be to fully support our existing workforce and prioritize our mission critical work.

We are also currently subject to an agency-wide procurement freeze with respect to purchasing or contracting for non-essential goods and services until the final revised budget is developed. Exemptions to the procurement restrictions for non-essential goods and services are generally limited to expenditures addressing a declared emergency, providing 24-hour medical care, avoiding a significant revenue loss, or achieving significant net cost savings. Needless to say, hiring and non-essential discretionary spending may stop or be significantly curtailed in the coming months and years depending on the severity of the pending COVID-19 budget shortfall for the Water Boards.

The hardest hit agencies will likely be those more dependent on the state's general fund versus fee-based programs. Although most of the Water Boards' programs are fee-based, some of our administrative programs and functions are supported by the general fund. In addition, we are likely to see a reduction in fee revenues for various programs due to decreased permitting activity related to the slowdown of new projects, project expansions, etc. For example, a decrease in development projects will result in a decrease of stormwater, 401 and wastewater permitting. In addition to reduced residential housing and commercial development, recessions also result in decreased consumer spending. Both of these can result in reduced tipping fees at landfills because our society generally produces less garbage during recessions. This will make it more difficult for landfills to cover operations and maintenance costs and it will also reduce our landfill program funding because it is partially dependent on tipping fee revenue surcharges.

The Uncharted Road Ahead

This report is part of our first remote virtual public meeting, and we may have more in store for us throughout the year and perhaps into next year depending on how the COVID-19 pandemic plays out. In the near-term we will likely be required to continue remote virtual public meetings and in the mid-term our meetings will probably include in-person meetings of limited size in coordination with remote virtual meeting functionality to adhere to meeting size restrictions and social distancing requirements. In the long-term we may utilize our newly acquired remote virtual meeting capabilities to augment our in-person meetings. Doing so could be beneficial, resulting in improved efficiency and public participation by making meetings more accessible without stakeholders, staff and Board members having to travel potentially significant distances and incur travel related expenses.

The uncertain and potentially significant economic constraints we may face in the coming months and years are going to require ongoing prioritization of our work, and Water Board budget shortfalls will likely require postponing or not doing some work and developing new tools and processes to more efficiently do our work. The Water Board management team is implementing a program-by-program and special initiative workload and prioritization assessment with staff to inform the road ahead relative to our ability to fill vacancies and procure goods and services. Ultimately, we may be required to operate at a decreased capacity and do less work. And, if allowed to hire new staff,

we will need to change how we onboard, train, and mentor new staff if we are still subject to full or partial office teleworking to facilitate social distancing and shelter-in-place requirements.

The Governor and local agencies have begun talking publicly about transition plans to move back to more normal operations in stages to get the economy restarted. In anticipation of the eventual lifting of shelter-in-place and business closure requirements we are starting to develop a return to work plan that addresses regional and local issues, office constraints, and individual staff risks and needs. The return to work plan will take place gradually over time with appropriate restrictions and controls to protect staff and the people we come in contact with from COVID-19. It will include ongoing telework on a part or fulltime basis for some staff so that only a limited number of staff are in the office at any given time to implement social distancing.

Conclusion

We've been able to effectively adapt to the COVID-19 crisis as an office and agency as a whole, and we are going to need to remain nimble in the coming months in response to the ongoing crisis and potential budget constraints. Although the COVID-19 crisis and the associated level of our response and adaptation are unprecedented, the Water Boards have effectively managed recession induced budget constraints in the past and will do so again while focusing on our highest priority work.

Numerous State Water Board staff from the Division of Administrative Services (DAS), Division of Information and Technology (DIT), Office of Chief Counsel (OCC), etc. are working tirelessly in support of all the Water Board divisions and regions in the massive and unprecedented telework effort and shift towards remote virtual meetings with the objective of maintaining our essential functions and mission to protect public health and the environment.

I would like to acknowledge how proud I am of our staff and broader Water Board community with respect to their strength, flexibility, and adaptability to continue implementing our essential functions in support of protecting public health and the environment for the benefit of our local, regional, and statewide residents and communities. I would also like to acknowledge how lucky we are as a Water Board community to still have meaningful and rewarding jobs during a time when many individuals, families, and businesses are struggling financially. I am personally very grateful for this and my heart goes out to those less fortunate during this very trying time.

ATTACHMENTS

1. Table 1 - 401 Water Quality Certification Applications Received
2. Table 2 - 401 Water Quality Certifications Issued
3. Table 3 - Groundwater Section, Case Closure Performance Scoreboard
4. Table 4 - Groundwater Case Closures
5. Table 5 - Enrollments In General Orders/Waivers