

**STAFF REPORT
CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD
ENFORCEMENT AND COMMUNICATION POLICIES
17/18 MARCH 2005 REGIONAL BOARD MEETING**

INTRODUCTION

Recent articles in the Sacramento Bee regarding the Hilmar Cheese Company, its waste discharges and regulatory actions by the Central Valley Regional Water Quality Control Board (Regional Board) gave rise to a perception and/or concerns held by some observers that the Regional Board does not enforce against dischargers causing pollution. In response to this, the Regional Board met in closed session at its 27/28 January 2005 meeting to evaluate the performance of its Executive Officer and other employees relative to the operation of the Fresno Office.¹ When the Board returned to open session, the Board Chair stated that the Regional Board expressed its confidence in the leadership of the Executive Officer, and directed staff to prepare a written report evaluating the enforcement and communications policies of the Regional Board to be discussed in open session at the March (2005) Regional Board meeting. This staff report was prepared pursuant to that directive.

A similar review and evaluation was conducted for the confined animal program in the late 1990s. In the early and mid 1990s budget cuts almost entirely eliminated the field program for compliance with the Confined Animal Facility regulations. Lack of oversight at the 1600 dairy facilities in the Central Valley resulted in discharges to surface waters that became so blatant that the San Francisco Chronicle published a front-page article on the extent and effects of dairy discharges on Central Valley waters.

The spotlight on these discharges resulted in a complete review of how enforcement was conducted for confined animal facilities. The review resulted in nominal staff increases, inspections of dairies by United States Environmental Protection Agency (US EPA) staff and additional attention to the issue by the dairy industry and others working on the development of an industry-based environmental stewardship program (California Dairy Quality Assurance Program). Of key importance, however, was the formation of the Dairy Task Force, a group of local, state and federal prosecuting attorneys that meets with staff of the Regional Board and Department of Fish and Game to coordinate enforcement related to surface water discharges. Prosecution by this group has resulted in court injunctions, hundreds of thousands of dollars in fines and, in a few cases, jail time. In the eight years since the newspaper article came out, the number and extent of discharges from dairies to surface waters has dropped significantly. An example of the water quality improvement is the Harding Drain, which commonly carried dairy wastes in the past. Fish were recently observed trying to migrate up the drain.

¹ California Government Code section 11126 (a) (1) authorizes a state body to hold closed sessions during a regular or special meeting to evaluate the performance of a public employee.

Response to the Hilmar Cheese Company case is not the only driver for evaluating enforcement efforts in the Region and identifying means by which enforcement efforts can be improved and enhanced. Action Item 6 in the Governor's Action Plan (Action Plan) for the Environment identifies the need to, "protect California's environment through the tough enforcement of existing laws." The Action Plan states,

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. My Administration will focus on keeping underlying statutes and regulations simple; simple rules are easiest to follow and comply with; unnecessarily complex rules are hard to comply with, hard to enforce, and encourage evasion. Particular attention will be given to better use of information technologies with strict, clear and rapid penalties for intentional or negligent misstatements or omissions.

In a memorandum dated 30 November 2004 from the California Environmental Protection Agency (CalEPA) to the Board Chairs, Department Directors and Executive Officers (Enforcement Initiative Memorandum), a series of administrative improvements were identified to implement Action Item 6 and improve the results of enforcement efforts. These include, but are not limited to, the development of a single complaint tracking system, development of a model enforcement program operational plan, creation of an enforcement intelligence team, creation of a cross media training program and CalEPA regional training centers, simplifying and streamlining permits, and development of an enforcement communication strategy. Some of these elements are discussed in more detail below, and the Enforcement Initiative Memorandum is included in this report as Attachment A.

Prior to issuance of the aforementioned memorandum, the Deputy Secretary for Law Enforcement and Counsel with CalEPA on 16 November 2004, addressed the Management Coordinating Committee for the State and Regional Boards on enforcement matters, and presented a CalEPA survey on enforcement conducted by the Boards and Departments. In comparing the Water Boards with other Boards, Departments, and Offices (BDOs) in CalEPA, the survey indicated that the Water Boards in general do a good job on enforcement in view of the very limited resources dedicated to enforcement tasks, but there are areas that need improvement. For example, although Water Boards handle well dischargers that are under regulation, they do not effectively deal with non-permitted dischargers. Improvement was also needed in enforcement related to criminal matters, but it was observed that deficiencies in enforcement by the Water Boards were related more to lack of resources for staffing and training than an inability or lack of will to engage in enforcement activities.

In addition to the CalEPA Initiative, the State Water Resources Control Board (State Board, or SWRCB) has started working with the Regional Water Quality Control Boards (Regional Boards, or RWQCBs) to develop a consistent process for statewide enforcement prioritization. This is discussed in more detail below in the Policy Section.

With any discussion on enforcement conducted by the Regional Board, it is important to keep several broad concepts in mind. The Regional Board's mission is to protect water quality. The ultimate goal is to assure discharger compliance with water quality laws and the State and Regional Board plans and polices, and to ensure water quality is protected. Enforcement is one tool among a number of tools the Regional Board uses to assure compliance. Other tools include permitting, compliance inspections and complaint investigation (field presence), and self-monitoring report reviews. When enforcement is conducted, some of the multiple purposes it serves is protecting the public and the environment, achieving compliance, deterring future non-compliance by specific dischargers and the discharger community in general (i.e., it can deter would-be violators), and leveling the playing field by not allowing violators to gain economic benefit, and hence, economic advantage over those businesses and individuals that comply with the law. In evaluating the enforcement record of the Regional Board and identifying means by which enforcement efforts can be enhanced, one must be mindful that water quality and compliance are the measures for evaluating how successfully the Regional Board is serving its mission, not how many enforcement orders it issues.

POLICY

Division 7 of the California Water Code (Water Code), commonly known as the Porter-Cologne Water Quality Control Act (Porter-Cologne Act), sets forth a comprehensive program to protect water quality and the beneficial uses of water. It applies to surface waters, wetlands, and groundwater and to both point and nonpoint sources of pollution. Water Code section 13000 provides:

- that the quality of the waters of the state shall be protected for use and enjoyment by the people of the state;
- that activities and factors which may affect the quality of the waters of the state shall be regulated to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible; and
- that the State must be prepared to exercise its full power and jurisdiction to protect the quality of the waters in the State from degradation.

The State Board and the nine Regional Boards are the state agencies with primary responsibility for the coordination and control of water quality, and implement both state and federal water quality laws. The State Board provides program guidance and oversight, adopts statewide water quality control plans, manages statewide regulatory programs, allocates funds, reviews decisions by the Regional Boards, and allocates rights to the use of surface water. The Regional Boards have responsibility for water quality protection in each of the nine hydrologic regions, including adoption of water quality control plans, managing regional regulatory and water quality programs, permitting, inspections and enforcement.

Timely and consistent enforcement of water quality laws is critical to effectively protect the waters of the state and ensure the people of the state have clean water. The Porter-Cologne Act provides the suite of enforcement tools the State and Regional Boards use to protect water quality.

In 2002, the State Board adopted the Water Quality Enforcement Policy (Enforcement Policy),² and stated therein that enforcement serves multiple purposes, including:

- assisting in protecting the beneficial uses of the waters of the state;
- preventing threatened pollution from occurring;
- promoting prompt cleanup and correction of existing pollution;
- ensuring compliance with State and Regional Board regulations, plans, policies and orders;
- protecting public health and the environment;
- helping to ensure dischargers that comply with the law are not placed at a competitive disadvantage by those who do not;
- deterring potential violators;
- monetary remedies provide a measure of compensation for environmental damage; and
- monetary remedies also ensure that polluters do not gain an economic advantage from violating water quality laws.

The State and Regional Boards have a wide array of enforcement options at their disposal. The Boards are authorized to take enforcement actions when necessary to address many circumstances, including, but not limited to, the following:

- violation of an effluent limit, receiving water limit, or discharge prohibition contained in an order or Water Quality Control Plan (Basin Plan) adopted by the State or Regional Board;
- an unauthorized spill, leak, fill, or other discharge; and
- discharger's failure to perform an action required by the State or Regional Board, such as submittal of a self-monitoring or technical report, or completion of a cleanup task by a specified deadline.

Enforcement determinations are complicated decisions that must be structured within statutory requirements, but are based ultimately on experience and professional judgment of technical staff. Enforcement actions can be a time consuming and demanding effort, and must be handled on a case-by-case basis. The time invested in an enforcement case can be

² Water Quality Enforcement Policy, 19 February 2002, State Water Resources Control Board. The policy can be accessed at: <http://www.waterboards.ca.gov/plnspols/docs/wqep.doc>.

months or even years. In deciding which course of action should be pursued, Regional Board technical staff consult with their supervisors, the enforcement coordinator, assigned legal counsel, and, as needed, counsel with State Board enforcement staff. Legal counsel provides expertise on most aspects of enforcement, including precedents and conformity with existing laws, regulations, and guidance, and the enforcement coordinator reviews documents to ensure conformity and consistency.

Pursuant to the Enforcement Policy, enforcement actions should be progressive. That is, staff should start with informal enforcement actions when responding to a violation and progress to formal and increasingly rigorous enforcement should the situation warrant. Generally, this means that when a violation is discovered, the initial response should be a phone call or staff enforcement letter to notify the discharger that staff is aware of the violation and to request additional information if necessary. If the problem persists or if appropriate cleanup action is not taken, enforcement responses should proceed to increasingly formal and more severe enforcement actions. It is recognized, however, that for chronic or recalcitrant violators, or for serious violations, it is often appropriate to move directly to formal enforcement actions requiring timelines for cleanup or compliance and/or imposition of penalties or administrative civil liability.

Informal enforcement is the most cost effective, is consistent with the overall goal of compliance, and in many situations, is highly effective. As such, it is the first enforcement response in many cases. Regional Board staff spend a significant amount of time on informal enforcement work. However, due to resource limitations, as well as cumbersome and time consuming data entry procedures, many informal enforcement actions are not entered in the data system used to track violations and enforcement. Thus, that side of the enforcement story is not well told.

See Attachment B for detail on key elements of the Enforcement Policy.

PROCEDURES

Progressive Enforcement

The following discussion sets forth the approach of how the Region typically responds to violations or unauthorized discharges. This does not represent a rigid framework – enforcement determinations are complex and require case-by-case analysis. It also does not contain an exhaustive list of all of the enforcement tools available to the Board and discussion of how these are used. Additionally, programmatic differences can exist in how enforcement is handled. These differences are discussed more thoroughly in Attachment C to this report.

Verbal Enforcement Actions and Staff Enforcement Letters

For many violations, the first step is an informal enforcement action. Staff contacts the discharger by telephone or in person, documents the conversation and updates the case file. During the initial contact, information is gathered on what caused the discharge, and what

steps are being taken to prevent it from happening in the future. Some programs enter the action into the enforcement database.

A follow-up staff enforcement letter is often appropriate and should inform the discharger of the specific violation(s), document how and why the violation(s) occurred, and how and when the discharger will correct the violation(s) and achieve compliance. Significant violations may warrant formal enforcement actions in place of or in addition to an informal action.

Notice of Violation

The purpose of a Notice of Violation letter (NOV) is to quickly bring a violation to the discharger's attention and to give the discharger an opportunity to return to compliance as soon as possible. In addition to a NOV, the Board may take formal enforcement action for continued noncompliance. A NOV may be issued instead of a staff enforcement letter if the violation is more significant, or if there is a lack of response to a staff enforcement letter or enquiry. Sometimes a combination of a NOV and a requirement to submit information (authorized by Water Code section 13267) is issued.

Water Code section 13267 Orders

The Regional Board may require a discharger who has discharged, discharges, is suspected of discharging, or who proposes to discharge waste to furnish, on request, under penalty of perjury, technical or monitoring program reports that the Regional Board may require. If a NOV requests a technical report and the discharger fails to respond, a Water Code section 13267 Order (13267 Order) is the generally the next step in enforcement. If the discharger fails to comply with a 13267 Order, the next step will generally be a Cleanup and Abatement Order, Cease and Desist Order or Administrative Civil Liability, depending upon the facts and circumstances, as described below.

Cleanup and Abatement Orders

Cleanup and Abatement Orders (CAOs), issued under authority of Water Code section 13304, 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. Violations of CAOs generally trigger further enforcement action in the form of Administrative Civil Liability, a Water Code section 13308 Time Schedule Order, or Referral to the Attorney General for injunctive relief or monetary remedies.

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 through 13303, adopts CDOs in a public meeting. CDOs are normally issued to dischargers regulated by waste discharge requirements (WDRs) and often remain in effect for years.

The CDO will usually contain a compliance schedule, including interim deadlines and interim effluent limits (if appropriate), and a final compliance date. CDOs may also include restrictions on additional service connections (referred to as a “*connection ban*”) to community sewer systems. These have been applied to sanitary sewer systems but can be applied to storm sewer systems as well. Violations of CDOs can trigger further enforcement in the form of Administrative Civil Liability, a Water Code section 13308 Time Schedule Order, or referral to the Attorney General for injunctive relief or monetary remedies.

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 Administrative Civil Liability 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 Porter-Cologne Act authorize the Regional Board to impose Administrative Civil Liabilities (ACLs) to address **past** violations. If an ACL is imposed, it is in lieu of other Porter-Cologne Act civil liability actions for the same act or failure to act. In addition to establishing ACLs, the Regional Board may refer cases to the Attorney General for recovery of civil monetary remedies in judicial actions.

The following is a list of examples of violations for which an ACL should be considered:

- one-time spills with either quantifiable or suspected damage;
- one-time spills which are not promptly or completely cleaned up;
- major violations of WDRs, a CDO or CAO, but no quantifiable damage;
- repeated minor violations;
- manure discharge from animal waste facilities;
- significant noncompliance with deadline dates for report submittal or equipment installation; and
- failure to submit a Report of Waste Discharge (RWD) when requested.

Water Code sections 13323 through 13327 describe the ACL process to be used. The Porter-Cologne Act authorizes the Executive Officer to issue an ACL Complaint. The Complaint describes the violation, proposes a specific monetary assessment, and sets a hearing date (no more than 90 days after the Complaint is issued). The discharger may either waive its right to a hearing or appear at a Board hearing to dispute the Complaint. In the latter case, the

Board has the choice of dismissing the Complaint, adopting an ACL Order (the ACL amount need not be the same as in the Complaint), or adopting a different enforcement order (e.g., referral to the Attorney General).

ACL actions are intended to address past violations. 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). One exception involves late reports, where a revised submittal deadline could have the effect of encouraging further delay for some dischargers.

In considering the options for progressive enforcement discussed above, the sheer scope of the many programs for which the Board is responsible, and their specific differences, issues and challenges must be understood and kept in mind. For example,

- the Central Valley Region has between one quarter to one third of the individual National Pollutant Discharge Elimination System (NPDES) permits statewide (222);
- the Region regulates almost 1200 facilities in the Waste Discharge Requirement Program, nearly a third of the statewide total, with additional facilities pending Waste Discharge Requirements or waiver;
- the Region regulates about 300 facilities in the Land Disposal Program;
- the Region's Site Assessment and Cleanup Program regulates about 410 facilities (which includes an aggregate total of approximately 1355 individual sites);
- the Underground Storage Tank Program directly regulates 1100 sites and provides oversight for an additional 1550 sites;
- the Region's Storm Water Program regulates seven cities/urban areas with NPDES permits under Phase I, is processing applications for 57 municipalities under Phase II, oversees 4,000 construction sites and 2500 industrial stormwater sites, and manages the Caltrans Statewide Storm Water Permit;
- over the past year, the Region received 390 new applications for water quality certifications;
- the Region's Irrigated Lands Conditional Waiver Program is working to address waste discharges from over seven million acres of irrigated lands; and
- there are approximately 2,050 confined animal facilities in the Region that the Confined Animal Program will be addressing.

Program-specific details can be found in Attachment C.

Other Agencies and Environmental Task Forces

The Enforcement Policy provides:

SWRCB and RWQCB staff should cooperate with other environmental regulatory agencies, where appropriate, to ensure that enforcement actions are coordinated. The aggregate enforcement authorities of the Boards and Departments of the California Environmental Protection Agency (Cal/EPA) and the Resources Agency should be coordinated to eliminate inconsistent and inappropriately

duplicative efforts. Where appropriate and as resources allow, RWQCB staff should take the following steps to assist in integrated enforcement efforts:

- (a) participate in multi-agency enforcement coordination;
- (b) share enforcement information;
- (c) participate in cross-training efforts;
- (d) participate with other agencies in enforcement efforts focused on specific individuals or categories of discharges; and
- (e) where other regulatory agencies have jurisdiction regarding site remediation, the RWQCB should inform and consult with those agencies to ensure that remedial activities will satisfy the aggregate requirements for all.³

“Often the RWQCB first hears about spills or other violations from the California Department of Fish and Game, the California Department of Toxic Substance Control, the Office of Emergency Services or other agencies. District Attorneys are another source of information. The RWQCBs can use this information to decide whether to initiate joint or separate enforcement actions.”⁴

The Regional Board can request the Attorney General to seek judicial civil liabilities on behalf of the Regional Board for Water Code violations. The Attorney General can also seek injunctive relief in the form of a restraining order, preliminary injunction, or permanent injunction.⁵ Injunctive relief may be appropriate in emergency situations, or where a discharger has ignored enforcement orders or does not have the ability to pay a large ACL.

“In cases where there is a serious violation of the CWA and additional investigatory resources are needed, the USEPA or U.S. Attorney may be contacted. Civil matters should be referred to the USEPA, not directly to the U.S. Attorney.”⁶

The Enforcement Policy also discusses District Attorney involvement in enforcement cases.

A major area where District Attorney involvement should be considered is where there is suspected criminal action related to releases of hazardous substances or toxic materials. A request for District Attorney involvement would support the local agency or another state agency that is taking the lead (e.g., county health department, city fire department, California Department of Fish and Game or the California Department of Toxic Substances Control)...

District Attorneys also have the resources to carry out investigations that may be beyond the expertise of RWQCB staff. For example, a District Attorney’s

³ Enforcement Policy, p. 32.

⁴ Ibid., p. 7.

⁵ Injunctive relief is authorized by Water Code sections 13262, 13264, 13304, 13331, 13340 and 13386.

⁶ Enforcement Policy, p. 25.

investigator is skilled at interviewing witnesses and collecting evidence. Such assistance can help a RWQCB determine if enforcement action is required and help with developing the evidence needed to prove the basis for enforcement...

In addition to the criminal sanctions and civil fines, the District Attorney often pursues injunctive actions to prevent unfair business advantage. The law provides that one business may not gain unfair advantage over its competitors by using prohibited tactics. A business that fails to comply with its WDRs or an enforcement order competes unfairly with other businesses that obey the law.⁷

“Enforcement actions taken by the RWQCB are administrative or civil actions. In cases where there is reason to believe that specific individuals or entities have engaged in criminal conduct, the RWQCB may refer the case to the District Attorney, City Attorney, Attorney General, US EPA’s criminal investigation division or the U.S. Attorney. Under criminal law, individual persons, as well as responsible parties in public agencies and business entities, may be subject to fines or imprisonment.”⁸ Most criminal statutes require some type of intent or knowing behavior on the part of the violator, and usually consist of a number of elements, each one of which must be proven. Determining whether the required degree of intent and each of the elements exists often involves a complex analysis. If a potential environmental criminal matter comes to the attention of staff, staff should inform Regional Board management and the Regional Board’s attorney. The Regional Board recognizes the importance of addressing criminal conduct, however, criminal matters are not within the standard scope of staff’s knowledge, experience or expertise. Training to help staff recognize the facts and circumstances that identify potential criminal conduct, as well as training on the appropriate procedures, and agencies or entities to coordinate with to ensure proper follow up is conducted can address this issue. Enforcement training is an element in the Regional Board Enforcement Work Plan discussed below.

An excellent discussion on environmental task forces can be found on CalEPA’s website:

Since June 1995, the California Environmental Protection Agency (Cal/EPA) has been encouraging the creation and support of local and regional task forces dedicated to the deterrence, detection, investigation and prosecution of environmental violations. The task force approach of combining federal, state, and local regulatory and law enforcement resources has proved to be a particularly effective tool because of the multi-media nature of environmental enforcement (i.e., an integrated approach that encompasses a combined examination of air, water, waste and other environmental concerns simultaneously). Since 1999, every county in the state has been covered by a county or regional environmental enforcement task force.

⁷ Enforcement Policy, p. 25.

⁸ Ibid., p. 26.

Environmental enforcement task forces are comprised of voluntarily participating federal, state, and local agencies with enforcement authority. The members of these task forces generally include local, state or federal prosecutors, local, state, and federal law enforcement agencies (e.g., sheriff, Fish and Game wardens, California Highway Patrol, Federal Bureau of Investigation (FBI), US EPA CID etc.), investigators and technical experts from Cal/EPA's boards, offices, and departments, and local environmental agencies (e.g., local hazardous material control programs, air pollution control districts, sanitation departments, etc.). Task forces can be especially effective in that they facilitate the pooling and exchange of resources and intelligence between different law enforcement and regulatory entities. These cooperative partnerships allow the task force members to pursue investigations which no single entity has the resources and information gathering capability to complete individually.⁹

Regional Board staff coordinate with other agencies and have been participating in task forces in the Region. As highlighted in the Introduction of this report, the Dairy Task Force was of key importance in leveraging enforcement efforts and improving compliance within the Dairy Industry. There are about 18 task forces within the Central Valley Region. As discussed in the Enforcement Work Plan (Attachment F), the Enforcement Coordinator will track existing participation and coordinate to ensure participation in all appropriate task forces within the Region.

Standard, Enforceable Orders

Effective communication with dischargers is critical in effectively implementing water quality laws, plans and policies. As discussed below in the Communications Section, state government documents must be written "in plain, straightforward language avoiding technical terms as much as possible and using a coherent and easily readable style."¹⁰ The Water Board's Communications Guidelines developed by State Board provide standards designed to accomplish this mandate. Other key issues are streamlining and standardization of enforceable orders.¹¹ These issues were recognized in the Enforcement Initiative Memorandum (Attachment A):

10. Enforceable Permits and Regulations

Currently, one of the greatest difficulties faced by enforcement staff is complicated, ambiguous and/or poorly written permits or multiple, conflicting and confusing regulatory requirements that are unenforceable. There is a need to ensure that all BDO permits and requirements are enforceable. Permit

⁹ Environmental Task Force, California Environmental Protection Agency website; <http://www.calepa.ca.gov/Programs/TaskForce/default.htm>, accessed 3 March 2005.

¹⁰ California Government Code section 6215.

¹¹ Such orders include, but are not limited to, Waste Discharge Requirements (WDRs), including National Pollutant Discharge Elimination System (NPDES) Permits; waivers; certifications; Cleanup and Abatement Orders, Cease and Desist Orders, and Time Schedule Orders.

requirements must be unambiguous. They should be written in such a way that they are clear, easy to understand, and determining compliance is simple. Similarly, the enforcement consequences for violation should be clear. Also, a majority of enforcement staff have identified the need to streamline existing code and regulations, with an emphasis on consistency among BDO relevant authorities. Therefore, I [Terry Tamminen, Agency Secretary] am asking the SWRCB to lead the effort and each BDO to participate in a task force of regulatory staff, permit writers and enforcement field staff from our local, regional, and state branches to make recommendations on ensuring that our regulations and permits are enforceable by our enforcement staff.¹²

The Enforcement Policy also recognizes the need for standardized enforceable orders, and calls for the State Board, with assistance and advice from the Regional Boards and other stakeholders, to compile and maintain examples of standard enforceable orders. Orders issued by the Regional Boards are to be consistent with standard orders, except as appropriate for specific circumstances related to the given discharges.¹³ Efforts are underway to standardize National Pollutant Discharge Elimination System (NPDES) permits statewide. Regional Board staff are participating in this process.

Prioritization

The Enforcement Policy calls for prioritization of enforcement efforts. Two Regional Boards have developed and implemented formalized processes for enforcement prioritization and tracking. The State Board is currently working with the Regional Boards to encourage similar processes in the other Regions and to develop a consistent process for statewide enforcement prioritization. The proposed process is modeled after the process used by the San Diego Regional Water Quality Control Board for its enforcement prioritization and tracking.¹⁴ There are elements in the San Diego Regional Board model that could be integrated into a prioritization and tracking process for the Central Valley Region, but it was recognized and discussed at the January Enforcement Roundtable meeting that a singular process that works in one Region might not work in other Regions. With three offices, over 200 technical staff and the many programs staff manages in the Central Valley, careful consideration will need to be given to develop a process that can be effectively implemented, and one that results in accurate prioritization for enforcement efforts. Central Valley Regional Board staff have started to evaluate approaches and are working with State Board.

¹² Enforcement Initiative Memorandum , p. 7.

¹³ Enforcement Policy, p. 2.

¹⁴ See Enforcement Summary Report on Violations and Enforcement Actions, 13 October 2004, San Diego Regional Water Quality Control Board, for a description of this process. This staff report can be accessed at: http://www.waterboards.ca.gov/sandiego/eo_report/reports/Enforcem%20update.pdf.

DATA

SWIM (System for Water Information Management) is the central information system created to track and monitor information for State and Regional Board programs. It maintains regulatory and investigation data, and is currently designed to:

- serve as a central archive for all environmental data submitted to the State and Regional Boards;
- support permitting, compliance and enforcement activities;
- support investigation activities; and
- provide the software to view data, and provide limited analysis and reporting functions.

The Discharger Module of SWIM manages information related to discharge programs and orders. The Compliance Module of SWIM is designed to track water quality violations and resulting enforcement actions. The Compliance Module replaced SINC (System for Information on Noncompliance), which was an interim system for information on compliance data. The Compliance Module also tracks liabilities and receivables for amounts assessed to dischargers for enforcement actions, and contains programming which enables staff to upload a pdf copy of enforcement documents into the data system for staff viewing and onto the State Board Internet for public viewing.

SWIM is a statewide system managed by State Board. In many cases standards have not been set or in those cases where direction has been given, organizations have not consistently followed that direction. As a result, the data for each Regional Board office are unique and relevant to each office, and the system cannot be used to make comparisons between Regional Board offices until data input inconsistencies are resolved. Regional Board offices have not entered their data exactly the same, as highlighted in the discussion below.

Differences in Recording Violations

A recent State Board enforcement summary, based upon a query of the SWIM database, indicates that the Fresno Office of the Central Valley Region has two-thirds of the 50 worst core regulatory dischargers on a statewide basis, or at least two-thirds of those with the worst compliance records. Neither is true. The following describes how the number of violations in the SWIM database came to show a disproportionate number of violations for dischargers regulated by the Fresno Office relative to discharges regulated by other offices, such that comparisons about worst violators and conclusions about greatest threat to water quality are meaningless.

Three Fresno Office staff participated directly in the statewide pilot testing for what became the enforcement module of the SWIM database. The three staff were instructed by State Board staff that each violation of a daily limitation had to be entered separately. Upon completion of the pilot test, Fresno staff opined, as did participating staff from other regions, that it would be considerably less burdensome to all staff to enter one violation per parameter per reporting period. State Board SWIM staff rejected this practical alternative as

unacceptable by State legislation. These three staff members eventually became the leads providing on-the-job training to other staff. Direct pilot participation by lead staff, rejection of the practical alternative for entering violations, and subsequent formal training by State Board staff reinforced the requirement that separate entries were required for each violation. The Fresno Office staff thus continued to enter each daily violation with a few practical exceptions that were documented as local protocol.

In 2000, State Board questioned database results because Fresno Office violation data in the database were growing at a much greater rate than data entered by other Regional Board offices. After State Board staff verified that procedures were being followed and the data were accurate (after some inaccurate data were corrected), there was no further follow up. In 2001 a State Board report illustrating comparative violation rates returned the spotlight to the Fresno Office. A memorandum to the Regional Board Executive Officer explained the reasons behind the Fresno numbers, and it identified suspected inconsistencies among offices and regions that nullified objective comparison of data. The Executive Officer discussed the matter with State Board. No change in procedure was directed as an outcome of this discussion to ensure inter-regional or intraregional consistency. Differences were highlighted and discussed again regionally in at least two meetings in 2002 and 2003 with no direction forthcoming on a uniform data-entry policy. In 2003, the high numbers of violations became a statewide issue again. In July 2003, the Fresno Office staff ceased entering each daily violation of each constituent. Nonetheless, the database contains large, misleading numbers upon which dischargers (and the Fresno office) are unfairly judged in intraregional and interregional, “orange-to-apple” comparisons.

The following points are note worthy:

- The Redding Office entered data the same as the Fresno Office during this period. As Redding Office WDRs contain few or no daily limits, there is less opportunity for violations and the violation rate is much lower.
- The Sacramento Office during this period entered one violation per month to represent all violations *of all constituents* during the month, and used a descriptive comment to characterize the violations.¹⁵ Accordingly, a discharger with the same pattern of daily violations as one regulated by the Fresno Office would appear in a simple SWIM data sort to be a small fraction of the problem presented by the Fresno discharger. For example, 4000 violations in Fresno might correspond with 133 violations in Sacramento.
- Unlike the Fresno Office, neither the Redding nor Sacramento office has had a large number of WDRs with salinity effluent limits, much less daily salinity limits. The Tulare Lake Basin Plan has specified salinity effluent limits since 1975, and similar limits generally

¹⁵ According to the Needs Analysis, discussed below in the Budget and Resources Section, the Sacramento Office WDR program has been operating at less than 15% of projected need. Resource limitations, combined with cumbersome and time consuming data entry procedures are the reasons staff adopted this approach for recording violations.

also appear in WDRs for discharges within the San Joaquin River Basin if regulated by Fresno staff. The vast majority of violations attributed to Fresno dischargers concern this daily effluent limitation for salt.

- Procedure in at least one other region is to enter violations only if they are actively pursuing enforcement (that way, the total number of violations are fewer and are always “linked” to enforcement actions). As State Board staff noted with transmittal of a recent list of violators, some regions have not been entering violation data at all. In contrast to the Fresno Office, the database makes it appear that dischargers have better records and that the Region is “on top of the situation.”
- Programs differ as well. NPDES Program staff (presumably statewide) enter each violation into SWIM. Title 27 Program staff (statewide), with considerably less data to manage due to no effluent limits, enter a violation (of a groundwater parameter) only the first month it occurs.

Enforcement Tracking

Due to resource limitations, the Regional Board must continuously balance the need to complete routine program tasks (e.g., inspections, permitting, monitoring report review) with the need to address violations. It must also balance the importance or impact of each potential enforcement action with the cost of that action. Informal enforcement actions are usually very cost effective and are therefore the most frequently used enforcement response. In many cases, an informal response such as a phone call or staff enforcement letter is sufficient to inform the discharger that the violation has been noted by the Regional Board and to encourage a swift return to compliance. Regional Board staff invests a significant amount of time in conducting informal enforcement, but in balancing workload priorities, informal enforcement is not comprehensively tracked by all programs in the SWIM Compliance Module. Additionally, programmatic differences exist in the tracking of formal enforcement orders in the database. Improved enforcement tracking and consistency in data entry is an element in the Regional Board Enforcement Work Plan discussed below.

Rough estimates of formal enforcement actions taken by the Regional Board from May of 1992 to December 2004 have been summarized as a part of the recent enforcement evaluation, and are included in Appendix D. For the reasons discussed above, the figures in these tables are estimates, and were summarized to provide some of the baseline information the Executive Officer can use to evaluate effectiveness of the Enforcement Work Plan implementation.

BUDGET AND RESOURCES

In Fiscal Year 04/05 the Region was provided 3.4 PYs and (\$460,306) to perform enforcement activities. These resources are distributed between the three offices. While one of the positions is used to support the Senior Enforcement Coordinator in the Sacramento

Office the remaining resources are used by program staff that perform enforcement activities as a part of their regular permitting or regulatory efforts.

Many of the enforcement efforts of the Regional Board have become very technical and staff intensive. In order to better manage this workload staff has implemented numerous changes in how to distribute and manage enforcement resources. These changes are reflected in the organizational charts in Attachment E. It is important to recognize that additional resources have not been allocated, and any shift in efforts to enforcement translates to decreased work on other key program elements (e.g., permitting, self-monitoring report reviews, compliance inspections). Specific impacts to given programs are discussed in the program descriptions provided in Attachment C.

In order to elevate and streamline enforcement efforts an enforcement coordinator has been identified in each of the Board offices. The sensitivity of enforcement actions makes it necessary that these positions report directly to one of the Assistant Executive Officers (AEOs). The enforcement coordinators in the Redding and Fresno Offices, in addition to coordinating enforcement policy issues with their AEO, also coordinate with the Senior Enforcement Coordinator in Sacramento. Having a designated enforcement person in each office will make it easier for staff to get quick direction and will prevent delays. The Enforcement Coordinator in the Sacramento Office reports directly to the Executive Officer on policy issues that deal with enforcement efforts. This change will help assure that sensitive issues or inconsistencies are dealt with quickly.

In addition to this two additional staff have been identified in the Sacramento Office to work with the program staff in all three offices and the enforcement coordinators. These positions are reflected in the organizational chart in the "Enforcement, Compliance and Program Support Unit". In addition to receiving additional training on enforcement options these staff will be trained in specific program areas. These first two positions will work in the NPDES, Chapter 15 and non-Chapter 15 programs. These staff will not only have a thorough knowledge of enforcement procedures but will also have the program technical knowledge. This will allow them to be a better resource to the program staff since they will have a thorough understanding of the technical issues associated with the various types of sites that these staff regulate. This combination of technical and enforcement knowledge will help them evaluate the merits of each case and provide program staff with technical as well and enforcement direction given the unique characteristics of each case.

The enforcement tasks in the Region have been woefully under funded for many years. In January 2001 the State Board submitted a Core Regulatory Programs' Needs Analysis report (Needs Analysis) to the Legislature. The report stated that an additional 389 PYs would be needed statewide to fully support existing program enforcement efforts by State and Regional Board staff and 392 PYs were needed statewide for new program enforcement activities. Enforcement activities included informal and formal enforcement, and did not include activities such as compliance inspections and self-monitoring report review, which are traditionally considered compliance assurance activities. In compiling data for the Central

Valley Region for the Needs Analysis, it was estimated that existing baseline PYs for existing core regulatory programs in this Region was roughly 37% of actual needs.

As part of the Work Plan a Budget Change Proposal (BCP) concept will be prepared for Fiscal Year 06/07 to provide for an increased field presence and to enhance enforcement efforts. Staff will begin drafting the proposed BCP concept in early April 2005. Once completed the concept proposal will be submitted to State Board for their review. If approved by State Board the proposed BCP will be forwarded to CalEPA, and, if approved, subsequently to the Governor and the Legislature for approval.

Staff Cost Recovery

Water Code section 13304 allows the Regional Board to recover reasonable expenses from responsible parties to oversee cleanup and abatement of discharges which have adversely affected, or threaten to adversely affect, waters of the state. The Regional Board must provide the discharger with a detailed estimate of the work to be performed or services to be provided, including a statement of the expected outcome of that work, based upon data available to the agency at the time; billing rates for all the individuals and classes of employees expected to engage in the work or service; and an estimate of all the expected charges to be billed to the responsible party by the agency.¹⁶

The Porter-Cologne Act authorizes the State Board to set up Cost Recovery Programs. The Budget Act of 1993 authorized the State Board to establish a Cost Recovery Program for the Spills, Leaks, Investigations, and Cleanups (SLIC) Program. The Cost Recovery Program was set up so that reasonable expenses incurred by the State Board and Regional Boards in overseeing cleanup of illegal discharges, contaminated properties, and other unregulated releases adversely impacting the State's waters can be reimbursed by the responsible party. Reasonable expenses are billed to responsible parties and collected by the Fee Coordinator at the State Board in the Division of Financial Assistance. Each cost recovery account has a unique charge number assigned to it. Whenever any oversight work is done, the hours are billed to the account number on the employee's time sheet. The State Accounting System calculates the cost of staff hours based on the employee's salary and benefit rate and the State Board overhead rate.

Staff cost recovery can, and should be pursued to a greater extent by the Regional Board for the site cleanup oversight it is conducting in other programs, given existing resource limitations. It has not been done to a great extent in other programs due to lack of a clearly defined mechanism for those programs as was established for the SLIC program. Staff is currently working with State Board staff to identify a mechanism and set up a cost recovery program for ongoing enforcement work through CAOs in the Waste Discharge Requirement and Land Disposal Programs.

¹⁶ Water Code section 13365.

Supplemental Environmental Projects

The State and Regional Boards may allow a discharger to satisfy some or all of the monetary assessment imposed in an ACL Complaint or Order by completing or funding one or more Supplemental Environmental Projects (SEPs). These are projects that enhance the beneficial uses of the waters of the state, provide a benefit to the public at large, and that, at the time they are included in an ACL action, are not otherwise required of the discharger. Limited use of SEPs associated with mandatory minimum penalties assessed under Water Code sections 13385 (h) and (i) is authorized by statute.¹⁷ Limited use of SEPs for up to 50 percent of a penalty for Stormwater Program violations assessed under Water Code section 13399.33 is also authorized.¹⁸ In addition, the Enforcement Policy supports the inclusion of SEPs in other ACL actions, so long as these projects meet specified criteria.

As recognized by the California State Auditor in an audit conducted in 2003 of the State and Regional Boards, a Regional Board can retain the benefits of some of the ACLs it assesses within its region by allowing a polluter to perform or fund a SEP.¹⁹ However, SEPs can require an intensive amount of staff time for oversight and administration from an already overcommitted staff. The San Diego Regional Board also opined that SEPs may weaken the enforcement message.²⁰ An approach needs to be developed to maximize the resource opportunity SEPs can afford the Region, while minimizing the amount of staff time these can require (i.e., further evaluation of the types of projects and dischargers the Regional Board will consider for SEPs). Certain types of projects can inherently require minimal oversight while still providing environmental benefit. Additionally, by not considering non-responsive or recalcitrant dischargers as candidates for SEPs, Board staff can avoid getting tied into a project requiring a significant amount of staff time or sending the wrong enforcement message.

COMMUNICATIONS

As discussed in the Enforcement Policy, “enforcement of the State's water quality requirements is not solely the purview of the Boards and their staff. Other agencies (e.g., the California Department of Fish and Game) have the ability to enforce certain water quality provisions in state law. State law also allows for members of the public to bring enforcement matters to the attention of the Boards and authorizes aggrieved persons to petition the SWRCB to review most actions or in-actions by the RWQCB. In addition, state and federal statutes provide for public participation in the issuance of most orders, policies and water quality control plans. Finally, the federal Clean Water Act (CWA) authorizes citizens to

¹⁷ Water Code section 13385(l).

¹⁸ Water Code section 13399.35

¹⁹ California State Auditor Report 2003-102. As authorized by statute, there is no correlation between the ACLs a given Regional Board collects and the amount of funds it receives from the State Board to spend on water quality improvement projects within its boundaries. SEPs are a mechanism for retaining water quality resource expenditures within the Region.

²⁰ Ibid. , p. 27.

bring suit against dischargers for certain types of CWA violations.”²¹ As such, effective communication is critical to effective process.

The importance of effective communication relative to enforcement activities was recognized in the Enforcement Initiative Memorandum (Attachment A). In it, the Agency Secretary, Terry Tamminen states, “[c]urrently, we lack an effective communication strategy to maximize the deterrent effect of the enforcement activities we undertake. The current enforcement communication program consists of the occasional and irregular press release about the conclusion of various, individual enforcement cases. There is a need to develop a draft communication strategy that would integrate and make more systematic our enforcement communications in our larger programs and daily activities.”²² Direction has been given to all of the Boards, Departments and Offices to have their Public Information Officers work with the Cal/EPA Public Information Officer to refine and implement a communication strategy that has been developed by the California Department of Toxic Substances Control.

Enhanced communication is an element in the Regional Board Enforcement Work Plan discussed below. The State Board has developed guidelines for use by State and Regional Board staff for website postings, written materials, visual identity standards (i.e., use of logos), and media and public information.²³ The communication element in the Enforcement Work Plan will encompass not only public and media communications (as addressed in the State Board guidelines), but also communications with other agencies and environmental task forces, and with dischargers.

The Water Boards’ Communications Guidelines

California Government Code section 6215 states that all state government documents shall be written, “in plain, straightforward language avoiding technical terms as much as possible and using a coherent and easily readable style.” The Water Boards’ Communications Guidelines (Guidelines hereafter) provides standards for written materials and website postings to ensure this mandate is met. It also sets protocols for document review and distribution, as well as for press releases and handling media contacts.

Media Contacts

The State Board has issued instructions to its staff regarding communications with the media. The State Board policy states, in part:

The Water Boards receive inquiries from the media every day. These inquiries cover a variety of subjects, some of which can be answered by Water Board Web sites, and some of which are more complicated or sensitive.

²¹ Enforcement Policy, p. 1.

²² Enforcement Initiative Memorandum, p. 7.

²³ The Water Boards’ Communications Guidelines, January 2005, State Water Resources Control Board.

STAFF REPORT
CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL
BOARD ENFORCEMENT AND COMMUNICATION POLICIES
17/18 MARCH 2005 REGIONAL BOARD MEETING

In order to provide timely, accurate and consistent responses to the media, refer all media calls immediately to the Office of Public Affairs (OPA).

OPA is staffed by Public Information Officers who will talk to reporters and provide immediate responses, or will get and relay information to reporters.

If it is appropriate for staff to talk to a reporter, OPA will arrange the interview at a mutually convenient time for the staff and reporter.

This policy will cut down on the number of inquiries staff receive from reporters and will improve the quality, content and consistency of our message to the media by trained communication professionals.

Although many of you have relationships with members of the press, it is mandatory that you forward all press calls to OPA immediately.

In general, staff at the Regional Board will be instructed to conform with this policy. The goal of the Regional Board is to always make available the most knowledgeable staff to inform the media and the public regarding the facts related to the business of the Regional Board.

Following are excerpts from the Guidelines:

Media Calls...

Regional Boards – Media calls should be directed to Executive Officer or, AEOs. When finished, please send an e-mail to OPA with the name, media affiliation, phone number, and a brief (one or two sentences) summary of the issue.

This will:

- Let OPA know to search the next day's news clips for the story(ies)
- Alert us to any issues about which OPA may receive calls
- Help us build our statewide and regional media contact database

If you find yourself in a conversation with a reporter outside the scope of these guidelines:

- Respond **only** to factual matters with which you are familiar.
- If a reporter's question calls for speculation on your part, respond truthfully, and say you don't know at this time.
- If sufficient information is not available to reasonably answer the question, get reporter's contact information and assure him/her that you'll look into the matter and someone will return the call.

- If the source of an answer is not clear, let OPA know, and staff will call the reporter with the answer, or provide the source for the answer.

...

State And Regional Board Staff Responsibilities...

Regional Board Executive Officers & Assistant Executive Officers

Acts as the chief spokesperson for the Regional Board, or delegates to Regional Board staff.

...

All Board Employees

Advise OPA when contacted by the media by e-mail.²⁴

Press Releases

The State Board has also provide instruction on press releases. The Guidelines provide:

News releases serve two purposes:

- (1) To generate interest from the press in the programs and policies by the Water Boards; and
- (2) To raise consumer and public awareness of the importance of water quality issues.

Topics could include an adopted order or decision, an official statement on a topical issue, an announcement of an upcoming meeting, water conservation messages, etc.

A news release should be issued as soon as possible—the same day as the event or the next morning. A news release on a less timely topic, such as water conservation messages can be issued at anytime. Media Advisories (abbreviated news release) should be sent out the day before an event and followed up with a call to the news desk.²⁵

The Guidelines also provide that if a Regional Board has an issue, the Executive Officer or his/her designee should contact OPA and submit a draft press release for review. The news release contact person should be the Executive Officer.

Training is one of the elements in the Enforcement Work Plan. Staff training will be provided on State Board public and media communications policies and guidelines.

²⁴ Guidelines, pp. 37-38.

²⁵ Guidelines, p.34.

Expanded Enforcement Discussions in the Executive Officer's Report

An element of the Enforcement Work Plan is to enhance the use of the Executive Officer's (EO) report to communicate more enforcement-related information. Staff currently summarizes ongoing enforcement with respect to particular dischargers in the EO report. However, information summarizing enforcement activities regionwide, progress reports on the Enforcement Work Plan, and current issues will also be discussed.

WORKPLAN

An outcome of the attention paid to the violations data compiled by the State Board and to the incidents related to Hilmar Cheese is the development of a work plan specifically for enforcement. Moreover the initiative of CalEPA to emphasize and improve enforcement among all Boards, Departments, and Offices of the Agency is additional reason and support for a work plan that identifies tasks the performance of which will respond to various concerns raised about the enforcement record of the Regional Board. These tasks are described below and summarized, along with their status, in the **Work Plan Table**, Attachment F.

Tasks in the Work Plan can be grouped in various ways, and for discussion purposes are grouped under Discharger, Policy, Procedures, Staffing, Personnel, Communications, and Resources.

Tasks directed to specific dischargers primarily address the case regarding Hilmar Cheese Company, but also include other priority dischargers such as Mozzarella Fresca / Tipton Dairy, and Nicolletti / Exxon Mobil to whom Cleanup and Abatement Orders were recently issued. These tasks include the development and issuance of the appropriate orders, as well as the follow-up oversight and determination of compliance.

Tasks involving policy stem from the Enforcement Policy issued by the State Board and the further refinement of that policy at the regional level for implementation. These tasks focus primarily on the development of priority criteria to ensure that limited enforcement resources are expended on the "highest" priority cases, as well as on the appropriate roles of Regional Board and State Board enforcement staff. For example, in view of the CalEPA enforcement initiative and the criticism of Board performance on enforcement, staff will place priority on enforcement over permitting. A result will be redirection of staff and a growing backlog of permits, since the game is one of zero-sum. Such redirection and enforcement focus will be strategically directed to address the most egregious situations and to backlog the least water quality impact permits. Moreover in order to guide priorities, criteria for deciding on enforcement will include impacts or threats to water quality or public health, violations of standing enforcement orders, and extent of repeated attempts to achieve compliance. Priorities will also be guided by whether the dischargers are "majors" – i.e., large, sophisticated, and knowledgeable, as opposed to "minors" that have few, if any, resources and are not well versed in the applicable laws, regulations, and policies.

Tasks involving procedures, in contrast to those involving policy, are focused on the steps that must be followed in order to produce enforcement documents that are consistent within the Region and within programs, are efficiently drafted, and are complete and effective. For example, whenever an enforcement action is being planned or considered, senior staff shall prepare a memo addressed to the Executive Officer, Counsel, and respective Assistant EO to ensure attention from management, and directions will also be provided regarding the appropriate signature authority for enforceable documents.

Tasks involving staffing are focused on the Senior Enforcement Coordinator and the identification of other key staff who are the primary organizational contacts for enforcement matters. Staffing tasks also involve enforcement training for all staff who participate in enforcement actions and the mentoring of junior staff for future assignments at the management or supervisory levels. For example, the Senior Enforcement Coordinator will provide the Executive Officer with a report listing and addressing enforcement priorities for the Region on a monthly basis, or more often if necessary. The Enforcement Coordinator also will ensure consistent reporting of violations into the SWIM (or successor) database, and will hold, at a minimum, quarterly meetings with the Executive Officer, AEOs, and Supervisors to review and discuss enforcement activities and to make recommendations on appropriate enforcement actions. Moreover the organization of staff at the Regional Board will be modified to identify Enforcement staff in each office. A revised organization chart is provided with this report as Attachment E.

In contrast to staffing, which views enforcement from an organizational perspective, tasks directed to personnel matters are more focused on the individuals within the Executive office and their performance related to enforcement and compliance. These tasks involve the evaluation of performance of each Assistant Executive Officer, the expectations of the Executive Officer, and the need and opportunities for direct communications, such as office visits. Performance evaluations of all the AEOs of the Region will be completed no later than March 30. Such evaluations will include interviews with subordinates and peers and will also include Individual Development Plans that will include Leadership Training, as well as any other relevant training that will improve relationships with staff. Executive management (other AEOs, program managers) will also visit the Fresno and Redding offices at least once each quarter, and the Executive Officer is scheduling monthly visits to those offices to meet with staff and review any issues and concerns - especially related to enforcement matters - with the senior staff and above. These contacts are supplemented by conference calls with executive staff.

Tasks involving communications are initially inspired by the State Board Communications Policy and Guidance. Although the State Board documents are focused on communications with the media (press, television, radio), the Regional Board policy and guidance will be broader and encompass communications between and among staff and the Board, staff and the State Board staff, staff and dischargers, staff and interest groups, staff and task forces and counsel, and staff internally.

Finally tasks directed to resources are focused on the development of a Budget Change Proposal concept for consideration by the State Board and CalEPA. The BCP concept would be for Fiscal Year 06-07 in anticipation of the need for additional personnel and funding to augment the existing budget in order to implement the increased enforcement effort and related work plan tasks.

The Work Plan is ambitious with regards to tasks in process and yet to be done, but status quo with regards to the many tasks that have been done in the past and are part of the standard operating procedures of the Regional Board for many years. The goal however is to improve performance and to assure the Regional Board and the public that Executive management and staff take very seriously the responsibilities placed upon them for enforcing water quality laws and to do so in ways that are efficient, fair, and effective.

LIST OF ATTACHMENTS

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| Attachment A | California Environmental Protection Agency
Memorandum re: Enforcement Initiative, 30 November 2004 |
| Attachment B | Summary of Selected Elements from the State Board
Water Quality Enforcement Policy |
| Attachment C | Program Descriptions |
| Attachment D | Enforcement Action Estimates |
| Attachment E | Revised Organization Chart |
| Attachment F | Enforcement Work Plan |