

SUPPLEMENTAL  
EXECUTIVE OFFICER SUMMARY REPORT  
(June 11, 2008)

- ITEM: 7
- SUBJECT: Consideration of a Resolution to Modify Resolution No. R9-2005-0271 Delegating Certain Powers of this Regional Board to the Executive Officer (*John Robertus*)
- PURPOSE: No resolution will be presented for consideration at the June 11, 2008 meeting. The purpose of this item is to receive direction from the Regional Board about future consideration of a resolution to clarify the delegation of powers and duties to the Executive Officer to resolve certain Administrative Civil Liability complaints.
- PUBLIC NOTICE: None required. Any action will be taken at a subsequent noticed meeting.
- DISCUSSION: The Porter-Cologne Water Quality Control Act (the Porter-Cologne Act) (California Water Code, Division 7) allows the Regional Water Quality Control Boards (Regional Boards) to delegate to their Executive Officers any of their powers and duties under the Porter-Cologne Act **except** for the following:
- a. The promulgation of any regulations;
  - b. The issuance, modification, or revocation of any water quality control plan, water quality objectives or waste discharge requirement;
  - c. The issuance, modification, or revocation of any cease and desist order;
  - d. The holding of any hearing on water quality control plans; and
  - e. The application to the Attorney General for judicial enforcement but excluding cases of specific delegation in a cease and desist order and excluding the cases described in subdivision (c) of Section 13302, 13304 and 13340.

See Cal. Wat. Code § 13223, subd. (a).

The nine Regional Boards have acted to delegate to their executive officers all of the powers and duties they may

legally delegate, consistent with Water Code section 13323(a). The San Diego Regional Board's most recent delegation was accomplished through Resolution No. R9-2005-0217, adopted on December 14, 2005 [Attachment 1].

The Porter-Cologne Act authorizes the Executive Officer of a Regional Board to issue administrative civil liability (ACL) complaints. (Wat. Code § 13323, subd. (a).) The Porter-Cologne Act provides the right to the discharger to have a hearing before the Regional Board to contest an ACL complaint. Alternatively, the discharger may waive the right to a hearing and pay the amount alleged in the ACL complaint. (Wat. Code § 13323, subd. (b).)

The California Administrative Procedures Act (APA) authorizes the Regional Boards to settle adjudicative matters without a hearing and provides that the authority to approve a settlement may be delegated. (See Gov. Code § 11415.60.)

Historically, the resolution of ACL complaints by Regional Boards generally has occurred in one of three ways. 1. If the discharger contested the complaint, the Regional Board held an adjudicatory hearing and issued an ACL Order following the hearing. 2. If the discharger did not contest the complaint, the Regional Board issued an ACL Order without a hearing. 3. If the discharger did not contest the complaint, the Executive Officer settled the ACL complaint by entering into a settlement agreement with the discharger pursuant to a general delegation and the APA and no ACL Order was issued.

An ACL Order is the preferred method to resolve ACL complaints, including ACL complaints (1) where the discharger does not contest the complaint and ask for a hearing and is willing to pay the full amount of the proposed liability and (2) where the discharger has waived their right to a hearing and the discharger and the enforcement staff have reached an agreement to resolve the complaint. ACL Orders are more easily enforceable than stand-alone settlement agreements because the Water Code provides specific remedies for collecting unpaid ACL Orders.

Orders imposing administrative civil liability are issued by the Regional Board pursuant to its authority in Water Code section 13323 to assess discretionary liability imposed

through Water Code sections 13350 or 13385 or to assess mandatory minimum penalties under Water Code section 13385.

While the San Diego Regional Board's general delegation contained in Resolution No. R9-2005-0271 implicitly delegated to the Executive Officer the authority to issue ACL Orders when a hearing is not necessary (because issuance of an ACL Order is not one of the excepted powers under Water Code section 13323(a)), the Executive Officer has not historically exercised this delegated authority. Therefore, if the Board wishes to authorize its Executive Officer to issue certain types of ACL Orders where a hearing is not required, it would be prudent that the delegation be explicit so that the authority for such a new practice is clearly expressed to the public and the regulated community.

In recent years, several of the other Regional Boards have acted to explicitly delegate to their Executive Officers the authority to issue ACL Orders where no hearing is required. They have done so with varying degrees of direction as to the factors the Executive Officer should consider in determining whether to exercise the authority in a particular case.

The Central Coast Regional Board (Region 3), for example, recently authorized its Executive Officer to issue ACL Orders where no hearing is required and the ACL complaint is issued for \$300,000 or less. Region 3's Board made this authorization orally, rather than through written delegation, at its February 2008 board meeting [Attachment 2]. Region 3's February action raised the dollar threshold from its earlier direction to authorize the Executive Officer to resolve ACL matters that were issued for less than \$100,000.

In March 2008, the Los Angeles Regional Board (Region 4) amended its general delegation resolution to clarify that the Executive Officer has authority to enter into settlements and/or issue certain ACL Orders in which no hearing is required [Attachment 3]. Region 4's delegation explicitly covers entering into settlement agreements to resolve ACL complaints and issuing ACL Orders incorporating terms of a settlement agreement (stipulated ACL Orders) in which the liability sought in the ACL Complaint is less than \$50,000 and the potential maximum civil liability is less than \$100,000. The resolution also extends the Executive

Officer's authority to matters in excess of those dollar limits where the Executive Officer determines, in consultation with the Chair, that the matter is not controversial or likely to generate significant debate among the full Board.

Region 4's general delegation resolution (also applicable to delegated authority in the ACL context) directs the Executive Officer to bring certain matters to the attention of the Regional Board members at a board meeting or by other appropriate communication. These matters include those of a unique or unusual nature, those that appear to depart from the policies of the Regional Board, those involving significant policy questions or a substantial risk of litigation, highly controversial matters, any matter that a Regional Board Member requests be brought to the attention of the Regional Board, and any matter that in the judgment of the EO should be brought to the attention of the Regional Board.

On the other end of the spectrum, the Central Valley Regional Board (Region 5) amended its delegation resolution in 2007 to explicitly authorize the Executive Officer to issue ACL Orders where no hearing is required (Resolution No. R5-2007-0009) [Attachment 4]. Region 5's resolution does not include any criteria to be applied by the Executive Officer in determining whether to issue ACL Orders herself or to instead bring the matter to the Regional Board for consideration.

If the Board wishes, staff can draft for Board consideration a resolution that explicitly delegates to the Executive Officer the authority to issue ACL Orders where no hearing is required. The Executive Officer could exercise this authority pursuant to any direction that the Regional Board chooses to provide in such a resolution. It should be noted that even if delegation were unrestricted, as in Region 5, the Executive Officer would not be precluded from bringing proposed ACL Orders where no hearing is required to the Regional Board for its approval as the Executive Officer deems is appropriate. Moreover, any such delegation would not affect the rights of the public to comment on any proposed settlement of an ACL complaint and would have no impact on the Regional Board's current practice of conducting hearings to consider whether to adopt an ACL Order when the discharger has contested the ACL complaint and requested a hearing.

The delegations in Regions 3 and 4 provide examples of the kind of direction that a Regional Board can provide its Executive Officer. In addition, there may be other limiting language that the Board would wish to include in such a resolution. For example, the Regional Board could consider crafting a resolution that specifically allows settlement of ACL complaints where no hearing is required, including issuance of ACL order that provide for Supplemental Environmental Projects.

**SUPPORTING  
DOCUMENTS:**

Attachment 1: San Diego Regional Board Resolution No. R9-2005-0271]

Attachment 2: Central Coast Regional Board Excerpted Executive Officer's Report and Minutes from February 7-8 Board Meeting

Attachment 3: Los Angeles Regional Board Resolution No. R08-[unknown] Amending Resolution R07-013, adopted March 6, 2008

Attachment 4: Central Valley Regional Board Resolution No. R5-2007-0009, adopted March 16, 2007

**RECOMMENDATION(S):** None at this time.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

RESOLUTION NO. R9-2005-0271

A RESOLUTION DELEGATING CERTAIN POWERS OF THIS REGIONAL BOARD  
TO THE EXECUTIVE OFFICER

WHEREAS, Section 13223(a), Division 7, California Water Code (CWC) provides that a regional water quality control board may delegate any of its powers and duties to its executive officer, except (1) the promulgation of any regulations; (2) the issuance, modification or revocation of any water quality control plan, water quality objectives or waste discharge requirement; (3) the issuance, modification or revocation of any cease and desist order; (4) the holding of any hearing on water quality control plans; and, (5) the application to the Attorney General for judicial enforcement except where specific delegation has been made in a cease and desist order or the cases described in subdivision (c) of Section 13002 and in Sections 13304 and 13340, CWC; and,

WHEREAS, Section 13223(b) states that whenever any reference is made in Division 7 of the CWC to any action that may be taken by a regional board, such reference includes such action by its executive officer pursuant to powers and duties delegated to him by the regional board; and,

WHEREAS, In attempting to comply with the California Environmental Quality Act (CEQA) public agencies, acting as lead agencies, may approve inadequate or inappropriate environmental documents for projects which may impact water quality; and,

WHEREAS, Under the CEQA the statutes of limitations provide time periods for challenging a lead agency's decision to approve inadequate or inappropriate environmental documents that are short and could expire before an item could be placed on a Regional Board's agenda for consideration of referring such a challenge to the Attorney General; and,

WHEREAS, The orderly conduct of a regional board's day-to-day business may necessitate the executive officer's delegation of authority under the CWC or signature authority for certain documents to lower levels in the organization.

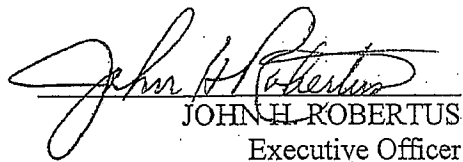
THEREFORE BE IT RESOLVED:

1. This Regional Board delegates to its Executive Officer all of the powers and duties of the Board under Division 7 of the CWC except those specified in Section 13223(a) which are enumerated above, with the understanding that this authority will be used at his/her discretion.

2. This Regional Board delegates to its Executive Officer the authority to refer the matter of challenging a lead agency's inadequate or inappropriate environmental documents, prepared pursuant to the CEQA, to the Attorney General with the understanding that:
  - a. If reasonably possible the Executive Officer shall seek prior Regional Board approval for the referral to the Attorney General.
  - b. If time limitations do result in the need for action without prior Regional Board approval the Executive Officer shall seek Regional Board ratification of his or her action at the earliest time possible.
3. The authorities delegated to the Executive Officer under this Resolution are delegated to the Assistant Executive Officer under the following circumstances; when the Executive Officer is absent from the office due to illness, vacation, work related travel or other similar reason, or, when deemed necessary to preserve the integrity of a separation of functions during an adjudicatory proceeding. The Assistant Executive Officer is authorized to re-delegate this authority under the same circumstances.
4. The Executive Officer may delegate signature authority for documents that are not issued under authority of CWC Division 7 as determined necessary for conduct of the Regional Board's day-to-day business.
5. Previously adopted Resolutions 79-58 and 90-52, and any previous Regional Board actions that address the matter of delegation pursuant to CWC Section 13223(a), are rescinded.

BE IT FURTHER RESOLVED, it is the intention of the Regional Board to review this matter as needed to consider any revisions that may be deemed necessary or desirable.

The California Regional Water Quality Control Board, San Diego Region, adopted this resolution at its regular meeting on November 9, 2005.

  
JOHN H. ROBERTUS  
Executive Officer

14 December 2005  
Date

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

**STAFF REPORT FOR REGULAR MEETING OF FEBRUARY 7-8, 2008**

Prepared on January 7, 2008

**ITEM NUMBER: 18**

**SUBJECT: Executive Officer's Report to the Board**

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

**WATER QUALITY CERTIFICATIONS**

[Dominic Roques 805/542-4780]

In general, staff recommends "Standard Certification" when the applicant proposes adequate mitigation. Measures included in the application must ensure that beneficial uses will be protected, and water quality standards will be met.

Conditional Certification is appropriate when a project may adversely impact surface water quality. Conditions allow the project to proceed under an Army Corps permit, while upholding water quality standards.

Staff will recommend "No Action" when no discharge or adverse impacts are expected. Generally, a project must provide beneficial use and habitat enhancement for no action to be taken by the Regional Board. A chart on the following pages lists applications received from November 1, 2007 to December 31, 2007.



### **Solving Water Quality Problems on a Watershed Scale**

Many of our watersheds have multiple water quality problems, and our data also suggest that there are often multiple contributors to the problems. Staff is exploring the effectiveness of using inspections as part of a watershed-scale, problem-solving approach, beginning with a watershed in Monterey County where the land use is predominantly irrigated agriculture. We selected this watershed based on complaints as well as known toxicity and nitrate exceedences. Concentrations of the pesticides diazinon and chlorpyrifos have been detected in the water column above the limits for fresh water aquatic life protection. Analysis of pesticide use records in the watershed indicated that chlorpyrifos was primarily being applied to broccoli. Sprinkler irrigation of broccoli contributes to tailwater discharges from irrigated fields into the drainages of the creek. Growers are reluctant to produce summer broccoli crops on drip because of economic and other production concerns. Staff conducted inspections at all farming operations in the watershed; in addition, staff attended meetings with the local farm bureau, County Public Works, the Cooperative Monitoring Program, and growers in the watershed. As a result, one grower in the watershed has initiated a trial drip irrigated broccoli crop for the 2008 season and the County and growers have agreed to work toward coordinated maintenance of the ditch and adjacent lands to address sediment and erosion issues.

We will continue to track progress and if this approach proves effective in solving problems, we will expand it to other watersheds in the near future. At the same time, where an individual is identified as causing problems without adequate attempts to address them, we will pursue individual enforcement actions as warranted.

### **Enforcement Actions**

We are continuing enforcement actions against farming operations that have not enrolled in the Conditional Waiver for Irrigated Lands. The Assistant Executive Officer issued five administrative civil liability complaints in December. Additional complaints will be issued in January in an effort to ensure that all commercial irrigated farming operations are enrolling. We will also issue complaints to Cooperative Monitoring Program participants that do not pay their fees for cooperative monitoring.

### Administrative Civil Liability Enforcement Cases [Roger Briggs 805/549-3140]

The Board has delegated responsibility to the Executive Officer to settle cases for liability amounts less than \$100,000. When the Board raised that delegation limit to \$100,000, the Board indicated it would reconsider that limit based on additional enforcement case experience. We can streamline our enforcement process to some degree by increasing that limit to \$300,000, and I will discuss this proposal at the Board meeting.



# California Regional Water Resources Control Board

## Central Coast Region



Linda S. Adams  
Secretary for  
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Arnold Schwarzenegger  
Governor

### MINUTES REGULAR MEETING Thursday and Friday, February 7-8, 2008 Central Coast Regional Water Board

Chairman Young called the meeting of the Central Coast Water Board to order at 2:30 p.m. on Thursday, February 7, 2008, at the Central Coast Water Board Conference Room, 895 Aerovista Place, Suite 101, San Luis Obispo, California.

1. Roll Call ..... Office Assistant Sherry Kuykendall

**Board Members Present:**

- Chairman Jeffrey Young
- Vice Chair, Russell Jeffries
- David Hodgins
- Monica Hunter
- Daniel Press
- Gary Shallcross
- John Hayashi

2. Introductions ..... Executive Officer Roger Briggs

Executive Officer Briggs introduced staff and announced that our State Board Liaison would not be able to attend the meeting. He asked parties who wished to speak to complete testimony cards and turn them in. Supplemental sheets that were prepared after the agenda was sent out are as follows: Items 5 and 9 (other items will be covered at tomorrow's meeting).

3. Report by State Water Resources Control Board Liaison..... Status Report

No report available.

4. Military Facilities Update ..... Status Reports

Executive Officer Briggs introduced the item by highlighting that Water Board staff members are working on hundreds of cleanup cases at the various military facilities discussed in the staff report. Mr. Briggs also introduced key staff members (Linda Stone, Kristina Seley, Grant Himebaugh, and Carol Kolb [who was not present]) working on these cases.

Board member Hayashi asked for clarification as to where the Monterey Peninsula Airport plume was located. Grant Himebaugh described the location of the plume with respect to the airport runway and local streets.

Board Chair Young asked how long it would take until all of the cases at Vandenberg Air Force Base are cleaned up and closed. Linda Stone said the Air Force's current plan, which is aggressive, is to have all currently identified Installation and Restoration Program cases undergoing cleanup or

vineyard. Dr. Press asked about the impact of a leachfield prohibition on existing facilities. Staff responded that existing facilities were "grandfathered" but would not be allowed to use leachfields as a repair or replacement option.

**19. Public Forum** ..... Board Direction

The following individuals had comments:

- Eric Greening, SLO Coast Alliance/SLO Co. Water Resources Advisory Committee – spoke about the recent CMC spill and potential enforcement action. Mr. Greening suggested substantial penalties and recommended that the penalties be used to fund SLO county water testing efforts or direct funding toward the preparation of a feasibility study for the participation of upper watershed facilities in the Cayucos/Morro Bay joint tertiary wastewater treatment plant.
- Hillary Hauser, Heal the Ocean – provided an update on the Rincon septic to sewer project.
- Jim Ashcraft, City of Morgan Hill – spoke about the CAO and delays on the work plan approval letter from the Regional Board. Mr. Briggs noted that the letter would be sent soon, hopefully within a week.
- Joey Racano, CA Ocean Outfall Group – spoke about the Marine Life Protection Act Initiative. He urged the Board to take swift enforcement action on the CMC spill into the Morro Bay Estuary.
- Dave Duggan, Resident Los Osos – spoke about a DVD he released about the CDO hearings and the Regional Board. He also spoke about various closed sessions held by the Regional Board and the Board's decision not to have a hearing on the CDOs.

**18. Executive Officer's Report** ..... Information/Discussion

Executive Officer Briggs clarified an acronym within the Water Quality Certification table. Written information was provided regarding the Pismo-Oceano Vegetable Exchange.

Board member Hayashi asked if Water Board staff had been out to the Greka sites where petroleum products had been released. Water Board Staff Engineering Geologist Rich Chandler indicated that he had inspected both the Bell and Zaca (Greka) sites shortly after those releases occurred. Chairman Young asked what Water Board staff was doing about the situation. Mr. Chandler responded that currently CA Fish & Game and the USEPA were lead agencies on these situations because they have regulatory authority and funding that allows them to take immediate control of the cleanups. Water Board staff are coordinating with them.

Mr. Chandler summarized recent events that occurred since the EO report was prepared including; a multi-agency coordination meeting organized by Water Board staff, other recent Greka releases, Santa Barbara County closure of four facilities, and EPA cleanup orders for four leases. Mr. Briggs briefly discussed the multi-agency coordinating meeting and his guidance to staff. Mr. Briggs stated that he would like to see a third-party audit program of the Greka infrastructure. Mr. Chandler said that the EPA had indicated they were thinking along similar lines. He also stated that the Santa Barbara County Petroleum office had expedited inspections of all Greka facilities resulting in the four shutdown orders.

Chairman Young asked why we did not already have Greka under a storm water permit. Mr. Chandler responded that federal regulations exempt petroleum operations from storm water regulations except under a few specific cases. Water Board Legal Counsel Frances McChesney advised against further discussion of the issues due to possible future enforcement actions and required separation of functions. Mr. Chandler indicated that following emergency cleanup actions, the Water Board may require additional assessment of surface water and groundwater at the release

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*California Environmental Protection Agency*

sites. Chairman Young encouraged staff to continue with their efforts to find ways to bring Greka into compliance.

Executive Officer Briggs congratulated Chris Rose on his promotion to Supervising Senior Environmental Specialist over the Total Maximum Daily Load Program. Mr. Briggs noted that three TMDLs will be coming to the Board at the March Board meeting. Board member Hunter asked for a summary of progress for the TMDLs. Board member Press asked that implementation of the approved TMDLs be included in the summary. Mr. Rose will provide a status report for the Board.

Executive Officer Briggs requested that the Board consider changing the level of delegation regarding the settling of Administrative Civil Liability (ACL) cases at the discretion of the Executive Officer from less than \$100,000 to less than \$300,000. Mr. Briggs showed slides of the current level of delegation and the proposed level of delegation. If the ACL order is not paid or has a Supplemental Environmental Project (SEP) and it is less than \$100,000 the EO could issue an ACL order with the SEP. Mr. Briggs gave reasons why he recommended the increased \$300,000 change and provided a sample case for the Board. The Board asked for a brief summary to be included at the end of the orders.

**MOTION: Gary Shallcross moved to approve the requested change in the Executive Officer's level of delegation to \$300,000 for Administrative Civil Liability cases.**

**SECOND: John Hayashi**

**CARRIED: Unanimously (7-0)**

Executive Officer Briggs discussed the supplemental sheet (Regional Water Board comment letter) sent to Executive Director Dorothy Rice at the State Board regarding the draft enforcement policy. The Board expressed disappointment in the proposed enforcement policy with regard to SEPs and asked staff what could be done to support the views of Region 3. Harvey Packard noted that the State Board is holding a workshop on February 19 in Sacramento on the proposed enforcement policy. Chairman Young asked the Board members if they were interested in attending the workshop. Board member Shallcross raised concerns about funds going into the Cleanup and Abatement Account. Mr. Briggs noted that staff could attend the workshop, and suggested coordinating with Dr. Press after gathering information on potential usefulness of providing further comment.

Chairman Young asked about food safety and the loss of vegetated buffers. He requested an update in the next EO Report on the issue.

Chairman Young addressed the budget information issue and noted that there would be a 10% reduction in general funds. Timber and Planning programs are totally supported by general funds. Chairman Young believes timber funding should not be cut at all.

*(Chairman Young announced a break at 10:07 a.m. The meeting reconvened at 10:24 a.m.)*

**15. County of Santa Barbara Phase II MS4 Status Report..... Status Report**

Water Board staff Environmental Scientist Brandon Sanderson summarized Santa Barbara County's Storm Water Management Program (SWMP) 2006/2007 annual report and first year SWMP implementation. He gave examples of correct BMP implementation, pointed out inadequacies in best management practices (BMP) implementation and reporting, and responded to public comments.

Board member Jeffries and Chairman Young expressed concerns about the County's street sweeping program and volunteer water sampling program. Chairman Young asked about the differences in requirements between the General Permit and the SWMP. Dominic Roques explained

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION**

**RESOLUTION R08-XXX  
amending  
RESOLUTION R07-013**

**DELEGATION OF AUTHORITY TO THE EXECUTIVE OFFICER**

**WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds:**

1. The Executive Officer is the Regional Board's confidential employee appointed pursuant to Water Code section 13220, subdivision (c).
2. Water Code section 13223, subdivision (a), authorizes the Regional Board to delegate to the Executive Officer any of its powers and duties vested in it by the Porter-Cologne Water Quality Control Act, excepting: (1) the promulgation of any regulation, (2) the issuance, modification or revocation of any water quality control plan, water quality objectives or waste discharge requirements, (3) the issuance, modification or revocation of any cease and desist order, (4) the holding of any hearing on water quality control plans, and (5) the application to the Attorney General for judicial enforcement but excluding cases of specific delegation in a cease and desist order and excluding the cases described in Water Code sections 13002, subdivision (c), 13304 and 13340.
3. Water Code section 7 generally authorizes the Executive Officer to delegate any of the Executive Officer's powers, including those powers delegated by the Regional Board to the extent allowed by the Regional Board.
4. Orderly and efficient operation of the Regional Board requires the Executive Officer to be able to carry out the Regional Board's day-to-day powers and duties to the maximum extent authorized by Water Code section 13223.
5. The Regional Board's obligations to the citizens of California and the Los Angeles Region require the Regional Board to retain the power and duty to act on any item within its jurisdiction, even if the Executive Officer would typically carry out that power or have that duty pursuant to this delegation, or has already carried out that power or exercised that duty pursuant to this delegation.
6. While the Regional Board has previously delegated to the Executive Officer its powers and duties to the maximum extent allowed by Water Code section 13223, it is nonetheless appropriate to update the delegation to reaffirm the Regional Board's intent to allow the Executive Officer to carry out the Regional Board's

day-to-day responsibilities and to clarify the circumstances under which authority conveyed by this delegation may be further delegated.

7. Nothing in this delegation is intended to diminish the force, effect or validity of any action the Executive Officer has previously taken in the name of the Regional Board.

**NOW, THEREFORE, IT IS HEREBY RESOLVED pursuant to sections 7 and 13223 of the Water Code that:**

1. The Regional Board delegates to its Executive Officer all powers and duties to conduct and to supervise the activities of the Regional Board.
2. Such activities include, but are not limited to, noticing Regional Board meetings and hearings, managing the staff, meeting with other agency officials, implementing the policies and regulations of the Regional Board and the State Water Resources Control Board and exercising any powers and duties of the Regional Board.
3. Except as otherwise provided in section 4 below, the Executive Officer is specifically precluded from taking the following actions:
  - 3.1 Promulgating regulations;
  - 3.2 Issuing, modifying, or revoking any water quality control plan;
  - 3.3 Issuing, modifying, or revoking any water quality objectives;
  - 3.4 Issuing, modifying, or revoking any waste discharge requirements;
  - 3.5 Issuing, modifying, or revoking any cease and desist order;
  - 3.6 Holding any hearing on water quality control plans; or
  - 3.7 Applying to the Attorney General for judicial enforcement unless there has been an explicit delegation in a cease and desist order that authorizes the application for judicial enforcement, or unless the judicial enforcement involves a request to the Attorney General to bring an action in the name of the people of the State of California to enjoin any pollution or nuisance or unless the judicial enforcement involves Water Code sections 13304 or 13340.
4. The Executive Officer may set aside a Regional Board action, in whole or in part, as commanded by a peremptory writ of mandate issued to the Regional Board.

5. The Executive Officer may settle an Administrative Civil Liability (ACL) Complaint, and/or issue a stipulated ACL Order, where no hearing is required, in any manner in which the liability sought in the complaint is less than fifty-thousand dollars (\$50,000) and in which the potential maximum liability is less than one-hundred-thousand dollars (\$100,000). In matters involving liability or potential liability in excess of those amounts, the Executive Officer may exercise the authority described above if after consultation with the Board Chair, the Executive Officer determines that the proposed settlement or order is not controversial, and would not be likely to generate significant debate among the full Board.
6. The Executive Officer may further delegate in writing or via electronic mail such of his or her duties as the Executive Officer deems appropriate. However, the Executive Officer may not delegate, nor may a delegatee further delegate, to anyone other than the Chief Deputy Executive Officer, an Assistant Executive Officer or a Section Chief the power to issue an order or directive that may be directly petitioned to the State Water Resources Control Board, including but not limited to:
  - 6.1 Water quality certifications;
  - 6.2 Technical report and investigation orders under Water Code sections 13225 and 13267;
  - 6.3 Time schedule orders under Water Code sections 13300 and 13308; and
  - 6.4 Administrative civil liability complaints under Water Code section 13323.
7. In exercising the authority herein delegated, the Regional Board directs the Executive Officer, without restricting the authority specified, to bring the following matters to the attention of the members of the Regional Board at a board meeting or by other appropriate communication:
  - 7.1 Matters of a unique or unusual nature;
  - 7.2 Matters that appear to depart from the policies of the Regional Board;
  - 7.3 Matters involving significant policy questions;
  - 7.4 Highly controversial matters;
  - 7.5 Matters that involve a substantial risk of litigation;
  - 7.6 Any matter that a Regional Board Member requests to be brought to the attention of the Regional Board; and

- 7.7 Any matter that, in the judgment of the Executive Officer, should be brought to the attention of the Regional Board.
8. The Regional Board may revoke in whole or in part any specific or implied delegation to the Executive Officer.
9. The Regional Board's delegation of authority pursuant to this Resolution does not diminish or alter the Regional Board's own power to act in the first instance, regardless of the reason.
10. All actions previously taken by the Executive Officer or a delegatee of the Executive Officer pursuant to the authority of Water Code sections 7 and 13223 are hereby ratified.
11. All prior resolutions of the Regional Board delegating authority to the Executive Officer are hereby revoked.

#### CERTIFICATION

I, Tracy J. Egoscue, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, on March 6, 2008.

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Tracy J. Egoscue  
Executive Officer

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Date



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2007-0009

DELEGATION OF POWERS AND DUTIES TO THE EXECUTIVE OFFICER  
(REVISION)

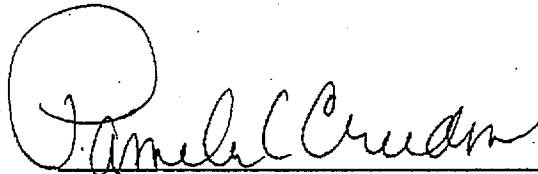
**WHEREAS:**

1. The Porter-Cologne Water Quality Control Act (California Water Code Section 13223(a)), provides that a Regional Water Quality Control Board (Regional Board) may delegate any of its powers and duties to its Executive Officer excepting only the following:
  - a. The promulgation of any regulations;
  - b. The issuance, modification, or revocation of any water quality control plan, water quality objectives, or waste discharge requirements;
  - c. The issuance, modification, or revocation of any cease and desist order
  - d. The holding of any hearing on water quality control plans; and
  - e. The application to the Attorney General for judicial enforcement but excluding cases of specific delegation in a cease and desist order and excluding the cases described in subdivision (c) of Section 13002 and 13304 and 13340.
2. The California Regional Water Quality Control Board, Central Valley Region, appointed Pamela C. Creedon as its Executive Officer effective 14 February 2006.
3. On 16 March 2006, the Central Valley Regional Board adopted Resolution No. R5-2006-0023 delegating to Pamela C. Creedon, its Executive Officer, under the general direction and control of the Regional Board, all of the powers and duties of the Regional Board under California Water Code Division 7 except those specified in Section 13223(a).
4. Although Resolution No. R5-2006-0023 implicitly delegated to Pamela C. Creedon the authority to issue Administrative Civil Liability Orders when it is not necessary for the Regional Board to conduct a hearing, it is prudent that the delegation be explicit in order that the authority for this new practice is clearly expressed to the public and the regulated community.

**THEREFORE BE IT RESOLVED THAT:**

1. Effective March 15, 2007, the Central Valley Regional Board hereby expressly delegates to its Executive Officer, Pamela C. Creedon, under the general direction and control of the Regional Board, all of the powers and duties of the Regional Board under Division 7 of the California Water Code, except those specified in Section 13223(a).
2. This delegation includes the authority to issue final Administrative Civil Liability Orders where no hearing is required.
3. The Executive Officer is hereby directed to certify and submit copies of this Resolution to agencies and individuals as appropriate and as requested.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 15 March 2007.

A handwritten signature in black ink, appearing to read "Pamela C. Creedon". The signature is written in a cursive style with a large, circular initial "P".

PAMELA C. CREEDON, Executive Officer