

State of California  
Regional Water Quality Control Board  
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT  
February 9, 2011

ITEM: 7

SUBJECT: Information Item: Briefing on State Water Resources Control Board's Enforcement Policy, the Compliance Oversight program, and Use of Expedited Payment Letters by the Regional Board (Jeremy Haas/Catherine Hagan)

PURPOSE: To provide the San Diego Water Board with an update on implementation of the 2009 Water Quality Enforcement Policy and the potential for use of Expedited Payment Letters to resolve violations subject to mandatory minimum penalties.

PUBLIC NOTICE: This item was listed in the February 9, 2011 Board Meeting agenda notice that was mailed to the San Diego Water Board's agenda mail list of interested persons.

DISCUSSION: Water Quality Enforcement Policy

The Water Quality Enforcement Policy (Policy) was adopted in 2009 and became effective in May 2010. Updating the Policy was an action item of the State Water Board's 2008 Strategic Plan, which sought to increase consistency, accountability and transparency across the water boards. It is the policy of the State Water Board that the Water Boards shall strive to be fair, firm, and consistent in taking enforcement actions throughout the state, while recognizing the unique factors in each case.

The Policy seeks to achieve consistency by providing specific processes for each water board to use in order to rank violations, prioritize enforcement actions, and develop penalty amounts in discretionary administrative civil liability cases. The Policy does not establish specific outcomes from the processes because it recognizes the unique factors surrounding each violation and regional water board. Transparency is further promoted by requiring specific reporting and use of public databases for compliance and enforcement information.

Policy Implementation with the Compliance Oversight Group

The existing San Diego Water Board process for prioritizing and implementing enforcement actions is generally consistent with

the new Policy. The San Diego Water Board uses a Compliance Oversight Group (COG) and a Compliance Assurance Unit (CAU) as an innovative solution to the challenge of effective and efficient enforcement. The COG/CAU structure is a way to orient formal enforcement around the core mission and priorities of the San Diego Water Board. Its success lies in organizing flexible enforcement resources around problems identified by the COG as priorities for enforcement. It also helps identify innovative solutions to high priority compliance problems. Essentially, senior staff members meet monthly as the COG to discuss and prioritize cases for assignment to the CAU. The CAU is a dedicated compliance unit that provides the ability to produce effective, efficient, and consistent enforcement actions across all programs.

#### Expedited Payment Letters to Streamline Mandatory Enforcement

Expedited payment letters are used by certain water boards and the State Water Board as an alternative to the formal complaint process for resolving mandatory penalties. To date, the San Diego Water Board has not used expedited payment letters, though their use could provide efficiencies by resolving complaints without investing staff resources for consent calendar board items. The letter would inform the discharger of alleged violations, would include an offer to participate in the expedited payment program to avoid formal enforcement by the San Diego Water Board and would explain the process for accepting the offer and for contesting certain identified violations. Resolution of the violations would be publicly noticed for a 30 day comment period to comply with federal regulations regarding settlement of Clean Water Act violations. The San Diego Water Board would be notified of proposed expedited resolution of mandatory penalties through the notifications section in the monthly Executive Officer's Report. Attached is an example of a recent Expedited Payment Letter issued by the Office of Enforcement for alleged violations in Region 4.

LEGAL CONCERNS: NONE

- KEY ISSUES:
1. The Enforcement Policy requires the San Diego Water Board to assess discretionary penalties based on an algorithm in the Policy.
  2. Expedited Payment Letters will represent a new approach for resolving mandatory enforcement actions in the region.

SUPPORTING  
DOCUMENTS:

1. Example of Expedited Payment Letter issued by the Office of Enforcement

RECOMMENDATION:

This is an informational item only. No action is required. However, the Board may provide guidance on use of Expedited Payment Letters.