

**State Water Resources Control Board  
January 15, 2008 Board Meeting  
Item 10. Executive Director's Report**

**OFFICE OF CHIEF COUNSEL**

**Delegation Authority**

The State Water Board has delegated to the board's staff many day-to-day functions of the board, including the authority to decide on some significant matters consistent with existing State Water Board direction. The board has five delegation resolutions. All of the delegation resolutions require bringing out of the ordinary or controversial items to the attention of the full State Water Board and preserve the authority of the board to act, notwithstanding the delegation to staff.

Future Executive Director reports will report on significant delegated actions pursuant to each of these resolutions. This current report includes a listing of Executive Director dismissals and of delegated decisions of the Division Chief for the Division of Financial Assistance.

- Stay Delegation (Res. No. 2002-0103)

Allows individual board members to hear and issue stays.

- Executive Director Delegation (Res. No. 2002-0104)

Provides general delegation to conduct and supervise the activities of the board. Unless specifically reserved in the delegation resolution, the Executive Director has the power to act as the State Water Board. Examples of matters reserved for the board, and for which the Executive Director has no delegated authority, include: regulations, water quality control plan or state policy for water quality control amendments, water quality orders, UST site closures, and stays.

The most common authorities exercised by the Executive Director include dismissals of water quality and UST petitions and reconsideration of certain decisions delegated to the Deputy Director for the Division of Water Rights.

- Contract/MOU Delegation (Res. No. 2002-0105)

Most of this delegation has been revoked and superseded, but this resolution still authorizes certain contracts and MOUs, other than through bond laws and the State Revolving Fund. The contracts must be less than \$500,000 and

less than three years in duration. The resolution further designates the Executive Director as the person who may resolve disputes.

- Financial Assistance (Res. No. 2007-0004)

This delegation resolution applies to bond laws, the State Revolving Fund, and certain grants pursuant to Clean Water Act section 319(h). The delegation allows the Deputy Director for the Division of Financial Assistance to make preliminary commitments (1) consistent with State Water Board policies, and (2) where the project is already on the board's priority funding list. It further allows agreements and amendments provided that (1) the State Water Board approved the commitment at a board meeting, or (2) the commitment was made pursuant to the delegation resolution.

- Water Rights (Res. No. 2007-0057)

The water rights delegation resolution is the most detailed delegation resolution. It allows an individual board member to act on (1) contested, conditional temporary water right permit (§ 1425), and (2) contested, conditional temporary urgency change (§1435). It further delegates to the Deputy Director for Water Rights, the general administration of the water rights program. This includes the authority to process (1) applications and licenses for appropriative water rights; (2) transfers or temporary changes not involving a hearing; and (3) cancellation or revocation of water rights under certain conditions.

## Executive Director Dismissals

Pursuant to delegated authority to dismiss certain water quality petitions and stay requests, the Executive Director took the following actions since the December 4, 2007 board meeting.

### Stay Dismissals

Petitioner	Region	File	Challenged Regional Board Action	Date of Stay Dismissal
American Honda Motor Co., Inc.	4	A-1893	Water Code section 13267 Letter dated October 26, 2007, requiring submittal of Technical Report detailing results on LFR, Inc. work plan dated October 18, 2007	01-03-2008

<b>Petitioner</b>	<b>Region</b>	<b>File</b>	<b>Challenged Regional Board Action</b>	<b>Date of Stay Dismissal</b>
Ken Berry and California Citizens for Environmental Justice  DISCHARGER: City of Colfax	5	A-1897	Cease and Desist Order No. R5-2007-0131 for the City of Colfax Wastewater Treatment Plant, Placer County	01-03-2008

### **Water Quality Petition Dismissal**

<b>Petitioner</b>	<b>Region</b>	<b>File</b>	<b>Challenged Regional Board Action</b>	<b>Date of Stay Dismissal</b>
Lorrie L. Greene  DISCHARGER: Interstate Brands Corporation; Temple of Deliverance Church of God In Christ; Jason Hunt; Timothy Kong; Lorrie Greene	5	A-1891	Cleanup and Abatement Order No. R5-2007-0725 for 1426 S. Lincoln Street, Stockton, San Joaquin County	01-03-2008
Ballona Wetlands Land Trust  DISCHARGER: Playa Capital LLC	4	A-1862	Failure to Act on Request for Individual NPDES Permit for Playa Capital, L.L.C.	01-03-2008

### **Underground Storage Tank Cleanup Fund Petition Dismissal**

<b>Petitioner</b>	<b>File</b>	<b>Challenged DFA Action</b>	<b>Date of Stay Dismissal</b>
J.S. & J. Service Inc. USTCF Claim 6484	UST-243	Determination that \$48,269.60 in claimed costs were not eligible for reimbursement from the UST Cleanup Fund.	12-14-2007

### **Acting, Pending Water Quality Petitions**

<b>Petitioner</b>	<b>Region</b>	<b>File</b>	<b>Challenged Regional Board Action</b>
Emhart Industries, Inc.	8	A-1693	Cleanup and Abatement Order No. R8-2005-0053 for Emhart and Black & Decker
Black & Decker (U.S.), Inc.	8	A-1693(a)	Cleanup and Abatement Order No. R8-2005-0053 for Emhart and Black & Decker
City of Arcata	1	A-1754	Administrative Civil Liability Order No. R1-2006-0054 for Arcata Wastewater Treatment Facility

<b>Petitioner</b>	<b>Region</b>	<b>File</b>	<b>Challenged Regional Board Action</b>
Own Motion Review by State Water Board	8	A-1824	Rialto-Area Perchlorate Contamination
Natural Resources Defense Council, Santa Lucia Chapter of the Sierra Club, The Otter Project, The Environmental Center of San Luis Obispo, and Surfrider Foundation	3	A-1838	Approval of County of San Luis Obispo Storm Water Management Program [NPDES No. CAS000004], Resolution No. R3-2007-0019
City of Arcata	1	A-1840	Failure to Modify or Reissue NPDES Permit No. CA0022713 [Order No. R1-2004-0036] for City of Arcata Wastewater Treatment Facility
Asociación de Gente Unida por el Agua Dischargers: Community Alliance for Responsible Environmental Stewardship (CARES) and California Dairy Quality Assurance Program, representatives of potential dischargers	5	A-1845	Waste Discharge Requirements General Order No. R5-2007-0035 for Existing Milk Cow Dairies
Environmental Law Foundation	5	A-1845(a)	Waste Discharge Requirements General Order No. R5-2007-0035 for Existing Milk Cow Dairies
Baykeeper, Waterkeeper Alliance, Inc., Mother Lode Chapter of the Sierra Club, and California Sportfishing Protection Alliance	5	A-1845(b)	Waste Discharge Requirements General Order No. R5-2007-0035 for Existing Milk Cow Dairies
Environmental Law Foundation  DISCHARGER: City of Tracy	5	A-1846(a)	Waste Discharge Requirements Order No. R5-2007-0036 [NPDES No. CA0079154] and Time Schedule Order No. R5-2007-0037 for City of Tracy
California Sportfishing Protection Alliance  DISCHARGER: City of Tracy	5	A-1846(b)	Waste Discharge Requirements Order No. R5-2007-0036 [NPDES No. CA0079154] and Time Schedule Order No. R5-2007-0037 for City of Tracy
Environmental Law Foundation  DISCHARGER: City of Angels	5	A-1847	Waste Discharge Requirements Order No. R5-2007-0031 [NPDES No. CA0085201] for City of Angels

<b>Petitioner</b>	<b>Region</b>	<b>File</b>	<b>Challenged Regional Board Action</b>
Maxine Heim	3	A-1858	Cleanup and Abatement Order No. R3-2007-0030 for 1350 Freedom Boulevard, Watsonville, Santa Cruz County NOTE: Consolidated with A-1901 as of 01-08-08
Oroville Landfill Properties, Oroville Landfill Properties LLC, Jack M. Steebles LLC, Carol Ann Seidenglanz LLC, and Stephen Conn Seidenglanz LLC	5	A-1864	Refusal to Release Post-Closure Maintenance Financial Assurances for Oroville Landfill Properties
Environmental Law Foundation  DISCHARGER: Berry Petroleum	5	A-1871	Waste Discharge Requirements Order No. R5-2007-0064 [NPDES No. CA0078867] for Berry Petroleum Company, Poso Creek/McVan Facility, Poso Creek Oil Field, Kern County
ExxonMobil Oil Corporation  DISCHARGER: Torrance Refinery	4	A-1884	Waste Discharge Requirements Order No. R5-2007-0049 [NPDES No. CA0055387] for Torrance Refinery, Los Angeles County
California Sportfishing Protection Alliance  DISCHARGER: City of Lodi	5	A-1886	Waste Discharge Requirements Order No. R5-2007-0113 [NPDES No. CA0079243] for City of Lodi, White Slough Water Pollution Control Facility, San Joaquin County
Ed Voice Family, Friends of the River and Environmental Law Foundation	1	A-1889	September 14, 2007, Letter Granting Mercer Fraser Company's coverage under Order No. R1-2005-001, General Waste Discharge Requirements and Water Quality Certification for Sand and Gravel Operations
Jim Malot, Terra Vac Corp.	9	A-1892	Administrative Civil Liability Order No. R9-2007-0089 for Terra Vac, Body Beautiful Car Wash, San Diego, California
American Honda Motor Co., Inc.	4	A-1893	Water Code section 13267 Letter dated October 26, 2007, requiring submittal of Technical Report detailing results on LFR, Inc. work plan dated October 18, 2007
California Sportfishing Protection Alliance  DISCHARGER: City of Davis	5	A-1894	Waste Discharge Requirements Order No. R5-2007-0132 [NPDES No. CA0079049] for the City of Davis Wastewater Treatment Plant, Yolo County
California Sportfishing Protection Alliance  DISCHARGER: City of Yuba City	5	A-1895	Waste Discharge Requirements Order No. R5-2007-0134 [NPDES No. CA0079260] for the City of Yuba City Wastewater Treatment Plant, Yolo County

Petitioner	Region	File	Challenged Regional Board Action
Ken Berry and California Citizens for Environmental Justice  DISCHARGER: City of Colfax	5	A-1897	Cease and Desist Order No. R5-2007-0131 for the City of Colfax Wastewater Treatment Plant, Placer County STAY requested
Maxine Heim  DISCHARGER: Don Heim & Son Dry Cleaners	3	A-1901	Cleanup and Abatement Order No. R3-2007-0097 amending Cleanup and Abatement Order No. R3-2007-0030 for 1350 Freedom Boulevard, Watsonville, Santa Cruz County NOTE: Consolidated with A-1858 as of 01-08-08
Environmental Law Foundation  DISCHARGER: Bell-Carter Olive Company, Inc.; City of Corning	5	A-1902	Waste Discharge Requirements Order No. R5-2007-0166 [NPDES No. CA0083721) for Bell-Carter Olive Company, Inc. and City of Corning Industrial Wastewater Treatment Plant, Tehama County
City of Morgan Hill  DISCHARGER: Olin Corporation	3	A-1903	Cleanup and Abatement Order No. R3-2007-0077 for 425 Tennant Avenue, Morgan Hill, Santa Clara County

## WATER QUALITY POLICIES AND PERMITS:

**Status of Draft Compliance Schedule Policy:** The draft Compliance Schedule Policy for NPDES permits was released to the public for comment on December 12, 2007. Comments are due by February 20, 2008, and a proposed adoption hearing is scheduled for the Board's March 18, 2008 meeting in Sacramento.

**Status of Draft Construction Storm Water Permit:** Staff anticipates that the revised Draft Storm Water Construction Permit will be made available for public comment in late January 2008, following Board Member briefings. Public workshops will be scheduled for March/April with a formal public hearing proposed for May. The permit will be presented to the State Water Board for consideration of adoption after the formal public hearing and after responses to comments have been prepared.

**Status of Draft CalTrans Storm Water Permit:** In November, staff sent the draft statewide MS4 permit for Caltrans to the Regional Boards for comments. Regional Board comments, including Region-specific requirements, are now being incorporated into the permit. Staff anticipates posting the permit for public comment in March 2008 following Board Member briefings.

**Status of Development of Once-Through Cooling [316(b)] Policy:** Staff is coordinating a once-through cooling symposium with staff of the California Energy Commission. This symposium will be held on the campus of the University of California, Davis on January 15 and 16. Topics of discussion include retrofitting of coastal power plants, the identification of larval species entrained, and the reports that have been funded by the Ocean Protection Council and the State Water Board. A revised Scoping Document for once-through-cooling is anticipated to be posted for public comment following Board Member and Cal/EPA briefings in February.

**Status of Draft Sediment Quality Objectives:** The Draft Sediment Quality Objectives were discussed at a public hearing held on November 19, 2007 in Oakland. In addition, 29 comment letters containing more than 600 comments were received. The Board is now scheduled to consider adoption of the Draft Sediment Quality Objectives at its February 5, 2008 meeting.

**Status of Draft Septic Tank System Regulations:** The State Water Board was directed by legislation, AB 885, to develop statewide regulations for the operation and permitting of septic tank systems. Staff has drafted regulations as well as a statewide waiver for implementation of the regulations. A draft Environmental Impact Report (EIR) is being prepared. Staff expects to publicly notice the draft regulations, statewide waiver and EIR in April. During the period April through May, the State Water Board will hold eleven public workshops around the state to receive public input. After consideration of public comments, the documents may be modified and will be subsequently considered by the State Water Board for adoption.

**Status of the Toxicity Revisions to the Policy For Implementation Of Toxics Standards For Inland Surface Waters, Enclosed Bays, And Estuaries Of California (SIP):** Staff is currently working to revise the toxicity control provisions in the SIP. Proposed changes include: 1) clarifying the appropriateness of numeric toxicity effluent limits in NPDES permits, and 2) expanding and standardizing implementation requirements for toxicity control. Staff is working with the United States Environmental Protection Agency (U.S. EPA) to develop defensible statistical methods for the analysis of toxicity testing data. Staff provided U.S. EPA with a large set of toxicity testing data from dischargers, Regional Water Boards, and the Surface Water Ambient Monitoring Program (SWAMP). U.S. EPA contractors are in the process of analyzing these (and other) data to develop and validate the new statistical approach.

**Status of Draft Water Recycling Policy:** As mentioned in the previous Executive Director's Report, numerous substantive comments were received on the draft Water Recycling Policy. To allow staff time to prepare responses to comments, the Board has postponed its Adoption Hearing for this item until February 19, 2008.

**Status of Development of Wetlands and Riparian Protection Policy:** State and Regional Water Board staff are working together to prepare a resolution to direct the development of a wetlands and riparian protection policy, in several stages. Staff plans to brief Board Members on the proposed resolution in late January, to publicly notice the resolution in early February and to bring the resolution to the State Water Board for consideration at the Board Meeting on March 18, 2008.

## **WATER RESOURCES DATA:**

**SB 1070 Memorandum of Understanding Signed:** On November 26, 2007, a Memorandum of Understanding (MOU) between the California Environmental Protection Agency (Cal/EPA) and the California Resources Agency (Resources), was signed. The MOU fulfills a provision of Senate Bill 1070 (Chapter 750, Statutes of 2006) requiring the establishment of a California Water Quality Monitoring Council. This Monitoring Council will develop specific recommendations to improve the coordination and cost-effectiveness of water quality and ecosystem monitoring and assessment, enhance the integration of monitoring data across departments and agencies, and increase public access to monitoring data. Although the Monitoring Council may recommend new monitoring or information management initiatives, it will build on existing efforts to the greatest extent possible. A workgroup, consisting of staff from the Water Board, the Resources Agency, the Department of Public Health, the Office of Environmental Health Hazard Assessment, and the United States Environmental Protection Agency, has been meeting weekly. The workgroup has created criteria for selection of Council members and is collecting information about potential council members. Staff will work with the Executive Office in late January to select a date for the first council meeting. The agenda of the first council meeting will include creation of a timetable for next steps and determine when to bring items to our Board. Staff anticipates meeting an April 1, 2008 deadline for creating the inventory of existing monitoring efforts. Staff plans to update the Board Members on this topic as an Information Item during one of May, 2008 Board Meetings.

**California Integrated Water Quality System (CIWQS) Steering Committee:** In November, the Water Quality Data Management Project Team kicked-off the CIWQS user group teams. Two representatives from each of the four external user groups and one internal user group, along with a representative from U.S. EPA comprise the CIWQS Steering Committee. The external user groups represent the modules of CIWQS that dischargers submit data to or get data from. They are the Electronic Self Monitoring Report User Group, the Sanitary Sewer Overflow User Group, the Stormwater User Group, and the Public Reports User Group. The Steering Committee will hold their first meeting on January 25, 2008 at the Cal/EPA Building. The Steering Committee was created in response



to a recommendation of the CIWQS External Review Panel. The Committee will provide advise regarding further CIWQS development and implementation.

## **IRRIGATED LANDS REGULATORY PROGRAM:**

**Irrigated Lands Regulatory Program Report:** This month's Irrigated Lands Regulatory Program report will provide an update of activities of the Central Coast Regional Water Quality Control Board's program. The report is presented below in English, followed by a Spanish translation. Staff is developing protocol for a wide distribution of the Spanish translation. Future monthly reports will alternate between the status of the program at the Central Valley Water Board and at other Regional Water Boards.

### **Region 3 - Central Coast Water Board**

The Central Coast Water Board adopted its conditional waiver, R3-2004-0117, on July 9, 2004. The central coast of California is the "salad bowl" of our state. Because of its mild climate, farmers can grow high value crops with intensive cropping schedules. But this can require relatively high applications of fertilizers and pesticides for some crops. Consequently, high nutrient levels and in-stream toxicity have been found in some areas. The Central Coast ILRP includes a number of requirements, including monitoring. Growers were given the option of establishing a cooperative monitoring program as an alternative to individual, field scale monitoring. A new non-profit organization has been formed by industry members to implement the monitoring program and has successfully secured funding for the program.

The Cooperative Monitoring Program for Agriculture includes a 50-site network of trend monitoring sites, as well as a "follow-up" monitoring component for addressing problem areas. The monitoring program is designed to be integrated with the Central Coast Water Board's own Central Coast Ambient Monitoring Program (CCAMP) and other non-point sources monitoring efforts in the Region. Data collected by the program will be used to provide feedback to growers and to guide additional follow-up monitoring activities. It will also be used to assess long-term trends in water quality and the overall success of the program.

The program is utilizing an innovative web delivery system that ensures that data is delivered in a format that is compatible with state monitoring programs and with CCAMP's own website generating software. A management practice tracking system is also being used to geographically track the types and locations of agricultural practices that are being implemented. Initial program findings indicate that high nutrient concentrations and toxicity are widespread in agricultural areas in the Central Coast region. Central Coast Water Board staff are analyzing water quality data in concert with management practice information to help them work with growers to improve water quality.

The Central Coast Region ILRP requires enrollees to complete 15 hours of water quality education, farm plan development and implementation, management practice reporting, and monitoring. As a result of an extensive outreach effort by the Central Coast Water Board staff, virtually all participants have opted to participate in the cooperative approach.

### **Acreage Update Letters**

Each year, growers are given the opportunity to update their acreage, which is used to assess monitoring costs and State Water Board Agricultural Waiver fees. Acreage update letters were issued in early October 2007. All growers that have changed acreage during the year needed to fill out the forms and return them to the Central Coast Water Board.

### **Tier 2 Annual Reports**

Growers who are still in Tier 2 (have not yet completed 15 hours of education and/or their farm plan), are required to submit an annual report each year until they reach Tier 1. Growers were given three years to complete these requirements (Jan 2008), but there are still about 500 that are in Tier 2. The annual reports allow growers to identify difficulties/barriers to meeting the requirements, but Central Coast Water Board staff strongly encourages them to be able to demonstrate progress in meeting the requirements. Only one responsible person from an operation is required to have 15 hours of education, although many operations have several people attend courses, so that if someone leaves, they are still covered. Because there are so many different owner/tenant situations, the Central Coast Water Board does not have a hard and fast rule about who has to take the classes. The Central Coast Water Board staff want to be able to go to the operations, see the farm plan, see the practices in place and speak with someone who takes responsibility for water quality protection, whether it be the manager, owner, or tenant. The Central Coast Water Board does not require that every tenant have 15 hours of education, as long as someone directly involved in the farming operation has it and is ensuring that practices are being implemented to protect water quality. Essentially, the education and farm plan requirements apply at the farming operation level. Annual reports will be included with the acreage update letters for Tier 2 growers only.

### **Inspections**

Inspections are an integral part of all Regional Water Board regulatory programs. The Central Coast Water Board staff are conducting on-farm inspections throughout the region, both on a random basis to verify information submitted and to better understand what farmers are implementing, and in response to complaints or identified problems. The Central Coast Water Board ILRP staff

made many preliminary visits with growers to get their assistance in developing their inspection program. The primary goal of inspections is for Central Coast Water Board staff to see what practices farmers are implementing, work with them to solve problems, and make referrals to technical assistance providers when appropriate. Although staff may move to enforcement if serious problems are identified and not corrected within a reasonable time, the Central Coast Water Board's primary focus with inspections is mutual education and problem-solving.

## **Enforcement**

Currently, more than 400,000 acres are enrolled in the ILRP, representing about 93 percent of irrigated acreage in the Central Coast. Staff will continue working to ensure that all growers are complying with the ILRP conditional waiver. The current focus of enforcement effort is twofold: 1) to bring in the remaining growers who have not yet enrolled into the program and 2) to ensure that those who are in the program are meeting their monitoring obligations (either by conducting individual monitoring or by participating in the Cooperative Monitoring Program).

## **Failure to Enroll in the Agricultural Waiver**

The ILRP is a mandatory program for all commercial, irrigated farming operations in the Central Coast region. Those that do not enroll are out of compliance and subject to enforcement. Initial letters were sent out to large numbers of potential non-filers several months ago. The Central Coast Water Board followed up with 46 Notices of Violation (NOVs) to non-filers. As a result of issuing the NOVs, the Central Valley Water Board issued 15 Administrative Civil Liability Complaints in October 2007 for failure to enroll. All those receiving ACL Complaints must either pay the fines or appear at a hearing before the Regional Water Quality Control Board.

## **Failure to Meet Monitoring Requirements**

Monitoring is a mandatory part of the ILRP conditional waiver. The Cooperative Monitoring Program was established to allow growers a lower-cost alternative to individual monitoring. All those who have selected cooperative monitoring on their Notice of Intent are obligated to pay fees established by the Cooperative Monitoring Program, run by Central Coast Water Quality Preservation, Inc. Those who do not do so are out of compliance with the ILRP conditional waiver and therefore subject to enforcement. Notice of Violation letters are sent by certified mail to all those who are not current on their monitoring fees in early October. Those that do not respond by the required date in the letter will be issued Administrative Civil Liability Complaints. Proposed fines will include both outstanding monitoring fees and additional fines. All those receiving ACL Complaints must either pay the fines or appear at a hearing before the Regional

Water Quality Control Board. The Central Coast Water Board began issuing monitoring ACL Complaints in November 2007.

## **BAY-DELTA UPDATES:**

**Pelagic Organism Decline Workshop:** On January 22, 2008, the State Water Board will hold a Public Workshop to receive information regarding the Pelagic Organism Decline in the Bay-Delta Estuary. The purpose of the workshop is to receive current information and specific recommendations for actions to improve fishery resources that have been developed since the Board's June 19, 2007 workshop on Pelagic Organism Decline issues. A final draft report, *Pelagic Organism Decline: Synthesis and Conceptual Models for 2007*, will be released in early February.

Staff expects that the status and results of current toxicity studies, and a follow-up on the status of the development of the delta smelt refuge, among other related topics, will be presented to the Board at this workshop.

**Contaminants Synthesis Report:** Staff is finalizing the scope of work for a study to synthesize available information regarding contaminants in the Delta. The work will be conducted by the University of California, Davis, using an existing interagency agreement, and will be completed with the technical assistance of staff from the Central Valley Regional Water Quality Control Board. The goal of the study is to answer the three following questions:

- 1) Is there evidence that the magnitude, duration and frequency of toxicity and/or chemical concentrations presently being measured in the Delta might impair aquatic beneficial uses?
- 2) Is there evidence that water column toxicity is contributing to the Pelagic Organism Decline, and to what extent?
- 3) How might ongoing surface water monitoring be improved to more definitively answer the above two questions?

This State Water Board funded activity is part of the Interagency Ecological Program effort to better understand contaminant effects in the Delta. Development of the Contaminants Synthesis Report is therefore included in the Interagency Ecological Program 2008 program budget.

**Southern Delta Salinity:** Concerns regarding Delta and Central Valley Salinity were listed as an emerging issue in the 2006 Water Quality Control Plan for the Bay-Delta. In an ongoing effort to better understand and potentially update the southern Delta salinity standards, the State Water Board has proposed a study to synthesize information regarding salinity in the Delta. The Department of Water Resources has agreed to provide funding for this study. The work will be conducted by Dr. Glen Hoffman. Staff is working with DWR to finalize the scope

of work and a Memorandum of Understanding that identifies the roles and responsibilities of each party.

**Strategic Workplan for the Bay-Delta:** On December 4, the State Water Board adopted Resolution 2007-0079 outlining regulatory actions the State Water Board, Central Valley Regional Water Board, and San Francisco Bay Regional Water Board will take, or will consider taking, to address Bay-Delta issues related to water supply, species protection, and water quality improvements. The resolution directs Water Board staff to develop a strategic workplan for the proposed action items by June of 2008.

Staff will solicit public comment and Board direction on the scope and timeline of activities at upcoming Board meetings, tentatively March 4 and again in April. As noted earlier in this report, a workshop has been scheduled for January 22 to discuss the pelagic organism decline. Staff will provide an update on Bay-Delta issues, including development of this strategic workplan, at the February 5 Board meeting.

## **WATER RIGHT MATTERS:**

**Kern River: Petitions for revision of the State Water Board Declaration of Fully Appropriated Stream status for the Kern River:** In 2007, the Division of Water Rights received five petitions requesting revision of the Kern River's status in the State Water Board's Declaration of Fully Appropriated Streams (Declaration). The petitioners included: North Kern Water Storage District and City of Shafter; City of Bakersfield; Buena Vista Water Storage District; Kern Water Bank Authority; and Kern County Water Agency.

The Declaration lists California stream systems as fully appropriated during certain times of the year, and any new water right applications that are in conflict with the Declaration cannot be accepted by the Division. Since October 1964, the State Water Board has considered the Kern River system to be fully appropriated.

The five petitions filed assert that the Kern River's fully appropriated status should be modified to allow for consideration of new applications. Their arguments are based on recent court rulings that found Kern Delta Water District had forfeited some of its pre-1914 water rights on the Kern River because of non-use. The Water Rights Division Chief will determine if there is cause to conduct a hearing on the Kern River's fully appropriated status.

The petitioners also filed water right applications in anticipation that a hearing may be held and the State Water Board may subsequently determine that water is available for appropriation from the Kern River and thus the Declaration should be revised. The water right applications filed with the petitions are considered

major applications that request diversions from the Kern River in a range from 90,000 acre-feet annually (afa) up to 2,279,000 afa.

The Division issued a public notice of the petitions on November 30, 2007, and requested comments by January 31, 2008. The petitions are posted on the Division website along with the notice of the petitions. No comments on the petitions have been received as of January 11, 2008

**AB 2121: Release of Streamflow Protection Policy:**

On December 28, 2007, State Water Board staff released a draft instream flow policy for peer and public review. Water Code section 1259 added by AB 2121 in 2004 requires the Water Board to adopt principles and guidelines to maintain instream flows in five counties -- Marin, Sonoma, and portions of Napa, Mendocino, and Humboldt counties. As state policy for water quality control, the policy will have regulatory effect. The policy does not affect existing legal water supply projects, but does affect proposed projects and existing illegal projects and may affect those seeking certain types of changes to existing legal water rights. Parties have until February 19th to comment on the draft policy. After staff responds to comments, the draft policy will be considered for adoption by the Board. This is anticipated to occur in April.

**Water Right Enforcement: California American Water Company (Cal-Am):**

During the week of January 14, 2008, the Enforcement Section of the Division of Water Rights will issue a draft Cease and Desist Order against Cal-Am for its alleged continued unauthorized diversion of water from the Carmel River in Monterey County. The draft order alleges the following: Thirteen years ago the State Water Board adopted Order 95-10 that, in part, required Cal-Am to terminate its unauthorized diversions from the Carmel River by developing alternate water supplies and initiating conservation measures. Since 1995, although Cal-Am has initiated conservation measures and a groundwater recovery project, it continues to annually divert approximately 7,150 acre-feet in excess of its legitimate water rights. Cal-Am's diversions continue to adversely impact the instream beneficial uses of the Carmel River. The draft order proposes setting a specified schedule for Cal-Am to progressively reduce its unauthorized diversions from the Carmel River. Upon notice, Cal-Am has 20 days to request a hearing before the State Water Board to contest the alleged facts and requirements of the draft order.

**Russian River: Update on Sonoma County Water Agency Temporary Urgency Change:**

On June 13, 2007, the State Water Board approved a Temporary Urgency Change (TUC) to Sonoma County Water Agency's (SCWA) water right permits, allowing a reduction in the minimum instream flow requirements for the Russian River until October 28, 2007. The State Water Board order approving the change required a 15 percent reduction in diversion at SCWA's pumping facilities. SCWA was able to reduce pumping by 21.6 percent as compared to 2004, largely as a result of conservation and outreach efforts.

Approximately 23,000 acre-feet of water was conserved in Lake Mendocino as a result of the TUC. Lake Mendocino storage is currently at approximately 47,000 acre-feet, which is below normal for this time of year.

**OFFICE OF RESEARCH PLANNING & PERFORMANCE:**

**Strategic Plan:** Staff have been working for the past month reviewing the comments received to date on the Strategic Plan Update that the Water Boards plan to wrap up over the next several months. In addition to the public comment received through our website and letters submitted by various interest groups, Board Members, Executive Officers and staff from most of the Regional Boards and the State Board have been extremely thoughtful in their extensive comment, and in some cases rewrite, of portions of the draft text. In preparation for the workshop that the Board has scheduled on the Strategic Plan Update for February 6, we will be releasing a revised draft during the week of January 14. The comment period on this updated draft will run until February 15, 2008. This next draft will describe how our priority areas of focus will help us to achieve broad, measurable environmental outcomes.

**Water Board Training Academy Update:** The Water Board's Training Academy continues to provide needed high quality courses. Some recent and upcoming highlights include:

<b>Recently Completed</b>	<b>Waste Water Treatment Plant Operations</b> - During this past summer and fall, the Waste Water Treatment Plant Operations classes were given. These courses are targeted at inspectors, permit writers, engineers and scientists that are responsible for regulating waste water treatment plant operations and discharges. Almost 90 staff statewide participated in one of three four-day sessions.
	<b>Enforcenomics</b> - Over 80 staff from the Water Boards, Department of Toxic Substances Control, Fish and Game and other environmental enforcement agencies, attended a two-day course in Oakland on the economics of environmental protection and enforcement last week. Speakers included many of the most distinguished environmental economists from various universities as well as a number of state agency staff with unique expertise in the field.
<b>Upcoming</b>	<b>Bill Analysis</b> – Two one-day classes are being offered later this month to educate and train State and Regional Water Board staff in the legislative process and the preparation of bill analyses.
	<b>NPDES Permit Writers Training</b> - A week-long class will be held in San Diego next month for NPDES permit writers. This course, limited to 40 participants statewide, is given every two years and is considered core curriculum for permit writers around the state. All of

	the instructors are from U.S. EPA.
	<b>Transition to Supervision</b> – This one-day course, offered in both February and March, will cover the role of the supervisor, the variety of skills it takes to be successful, and the challenges as well as opportunities associated with a supervisory role.

## **OFFICE OF ENFORCEMENT:**

**Water Code 13385 Report:** A draft of this report was posted on the State Water Board’s internet webpage on January 8, 2008. The report will be presented to the State Water Board on February 5, 2008. This report summarizes information regarding violations of waste discharge requirements and enforcement actions taken by the Regional Water Quality Control Boards (Regional Water Boards) in response to those violations during calendar year 2007. The report addresses only discharges to surface water because it has been prepared pursuant to Chapter 5.5 of the California Water Code. Chapter 5.5 implements provisions of the Federal Water Pollution Control Act and establishes a regulatory program for discharges to surface water only.

**Water Quality Enforcement Policy:** The proposed revisions to the Water Quality Enforcement Policy were posted on the State Water Board’s internet webpage on January 8, 2008 for public comment. The revisions will be the subject of a State Water Board workshop scheduled for February 20, 2008.

**Baseline Water Quality Enforcement Report:** This report is under development and planned to be completed by January 25. The report will address water quality enforcement data for fiscal year 2006 – 2007 and will discuss statewide enforcement resources, enforcement actions in our core regulatory programs over the last year, proposed improvements in how we measure enforcement, and will include recommendations for improving our enforcement programs. A draft will be posted on the State Water Board’s internet webpage so that it can be discussed at a February 20, 2008 workshop along with the updated Enforcement Policy.

## **DIVISION OF FINANCIAL ASSISTANCE:**

### **Meeting/Workshops:**

#### **319(h) Nonpoint Source Applicant Workshop**

On January 7, 2008, Division of Financial Assistance staff hosted an Applicant Workshop in the Cal/EPA Building for the federal 319(h) Nonpoint Source Implementation and Prop 50 Agricultural Water Quality Grant Programs. The workshop was presented as a web cast and applicants participated remotely. The purpose of the workshop was to provide applicants with information to help



them prepare their full proposal applications. These applications are due to the State Water Board on January 31, 2008. The final project list will be presented to the State Water Board for approval in April 2008.

### **State Revolving Fund 2008-2009 Intended Use Plan**

Staff has conducted four public meetings in January 2008 to get input on the State Revolving Fund 2008-2009 Intended Use Plan. Meetings were held in Santa Rosa on Jan. 7<sup>th</sup>; in Sacramento on Jan. 8<sup>th</sup>; and San Diego on Jan. 14<sup>th</sup>. A meeting is also scheduled in Riverside on Jan. 15<sup>th</sup>. The SRF IUP will be presented to the Board for their consideration in June 2008.

### **Funding Fair 2008**

On Friday, January 11, 2008, the State Water Resources Control Board hosted "Funding Fair 2008" at the Cal/EPA's Headquarters Building. Over 250 attendees were able to come to the Funding Fair to attend workshops about funding opportunities for water improvement and related projects. 16 State, Federal, and non-profit agencies held workshops and hosted more than 25 exhibition tables to showcase over 70 funding programs offered by State and Federal agencies.

### **Meeting with EJ Communities to Discuss Wastewater Issues**

November 26, 2007- Water Boards staff attended a meeting with the Environmental Justice Coalition for Water (EJCW), Clean Water Action (CWA), and California Rural Legal Assistance (CRLA) regarding small community wastewater issues. Attendees discussed issues pertinent to small community wastewater planning and management, such as: affordability, governance structure, rural development, operations and maintenance, and the need for technical assistance. Potential improvements to the Water Boards' existing grant and loan programs were also discussed.

### **Senator Aanestad's Wastewater Roundtable Meeting**

December 10, 2007- Water Boards staff attended a 'Wastewater Roundtable' Meeting held by Senator Sam Aanestad, who represents communities within the jurisdiction of the Central Valley and North Coast Regional Water Boards, to discuss current regulatory requirements and available wastewater project financing options.

### **DFA and DWR staffs meet on AB1420**

On December 12, 2007 a meeting was held between DFA staff and Department of Water Resources staff regarding the implementation of AB 1420, passed in 2007, mandating water conservation reviews for applicants seeking public funding.

### **DFA Management Meets with California Rural Water Association**

November 14, 2007- Water Boards staff met with the Executive Director of California Rural Water Association (CRWA). CRWA is a nonprofit organization

that provides training, technical assistance, and representation to public water and wastewater utilities. CRWA is able to provide on-site training for operators, managers, and board members. In addition, they can provide small communities with technical oversight, including third-party review of project plans and specifications and other technical information.

**Updates:**

**Survey on SRF Program**

State Board staff is conducting a survey in cooperation with U.S. EPA and its management consultant to obtain stakeholder input on how the State Revolving Fund is perceived and what improvements are needed. The survey will run through mid-January. In addition, staff met with EPA and its management consultant the week of December 11<sup>th</sup> to review program procedures, marketing, and management. The consultant’s report and recommendations are expected in February.

**State Revolving Fund Stakeholder Advisory Group**

A State Revolving Fund stakeholder advisory group is being formed to get additional external input on improving program performance. The first meeting is expected in early February 2008.

**IRWM Grant Agreements**

The Integrated Regional Water Management Program has executed grant agreements with the North Coast Region, County of Orange, and the Watershed Coalition of Ventura/Calleugas. These grant agreements represent 40 individual projects and approximately \$75 million in grant funding.

**Division Approvals:**

The following Preliminary Loan/Grant Commitments were approved from November 1, 2007 through January 7, 2008, by the Deputy Director of DFA:

**State Revolving Fund Loan**

<b>Entity</b>	<b>Preliminary Loan Commitment</b>	<b>Project</b>	<b>Approved</b>
Union Sanitary District	\$8.9 million	Newark Pump Station Upgrade Project	12-11-07
County of Ventura	\$27.3 million	El Rio Sewer Project - Phase 5	12-20-07

### Small Community Wastewater Grant

<b>Entity</b>	<b>Preliminary Funding Commitment</b>	<b>Project</b>	<b>Approved</b>
City of Willits	\$1,622,846	Wastewater Treatment Reclamation	11-1-07
Maxwell Public Utilities District	\$1,866,860	Wastewater Treatment Plant Improvements	11-6-07
County of Marin	\$72,035	Tomales Bay Community Wastewater Project	11-6-07
County of Madera	\$63,723	South Fork Wastewater Treatment System	12-19-07
City of Grass Valley	\$2,000,000	Wastewater Treatment Plant Upgrade	12-19-07
Kelseyville County	\$2,000,000	Wastewater Treatment Plant Upgrade	12-19-07
Tuolumne Utilities District	\$94,187	West Ranch Recycled Water Storage Reservoir	12-19-07
Byron Sanitary District	\$2,000,000	Wastewater Treatment Plant Upgrade	12-21-07
Malaga County Water District	\$407,625	Wastewater Treatment Plant Ultra Violet	12-21-07
Garberville Sanitary District	\$1,951,173	Wastewater Treatment Plant & I/I Improvement	1-2-08
City of Woodlake	\$1,785,261	Wastewater Treatment Plant Upgrade	1-3-08

### Clean Beaches Grant

<b>Entity</b>	<b>Preliminary Funding Commitment</b>	<b>Project</b>	<b>Approved</b>
City of Avalon	\$1,355,000	Avalon Bay Water Quality Improvement	11/30/07
Cher-AE Heights Indian Community	\$1,671,252	Trinidad Harbor and Beach	12/21/07

### Water Recycling Grant/Loan

<b>Entity</b>	<b>Preliminary Funding Commitment</b>	<b>Project</b>	<b>Approved</b>
City of Palmdale	\$45,000	Recycled Water System Facilities Planning Study	12-18-07
Soquel Creek Water District	\$75,000	Full-Scale Satellite Water Recycling Demonstration Facility Study	12-19-07

City of Lakeport	\$66,000	City of Lakeport Municipal Sewer Water Recycling	12-19-07
Irvine Ranch Water District	\$75,000	Recycled Water Retrofit Plan for IRWD – Facilities Planning	12-19-07
Delta Diablo Sanitation District	\$75,000	East County Regional Industrial Reuse Study – Facilities Planning	12-19-07