

**STATE WATER RESOURCES CONTROL BOARD
ANNUAL FEES REPORT
FISCAL YEAR 2007-2008**

REPORT TO THE LEGISLATURE

OCTOBER 2008

**STATE WATER RESOURCES CONTROL BOARD
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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I. EXECUTIVE SUMMARY

The State Water Resources Control Board (State Water Board) is providing this report on the expenditure of annual fees to comply with Water Code Section 13260.3, which states “On or before January 1 of each year, the state board shall report to the Governor and the Legislature on the expenditure of annual fees collected pursuant to Section 13260.” This report presents these expenditures and discusses the following core regulatory programs and activities:

- NPDES Permit Program
- NPDES Stormwater Program
- WDR Program
- Land Disposal Program
- Confined Animal Facilities Program
- Surface Water Monitoring Program
- Groundwater Monitoring Program
- 401 Certification Program
- Irrigated Lands Regulatory Program

The mission of the State Water Board is to “preserve, enhance and restore the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.” This mission is accomplished, in part, through the regulation of facilities that discharge wastewater and stormwater into surface waters and ground waters of the state.

Water Code Section 13260 requires each person who discharges waste or proposes to discharge waste that could affect the quality of the waters of the state to file a report of waste discharge with the appropriate regional water board and to pay an annual fee set by the State Water Board, the funds from which are to be deposited in the Waste Discharge Permit Fund (WDPF). Water Code section 13260 requires the State Water Board to adopt, by emergency regulations, an annual schedule of fees for persons discharging waste to the waters of the state. Water Code section 13260 further requires the State Water Board to adjust the fees annually to conform to the revenue levels set forth in the Budget Act.

II. EXPENDITURE OF ANNUAL FEES COLLECTED PURSUANT TO WATER CODE SECTION 13260

As Table 1 shows, total WDPF revenue for FY 2007-08 was approximately \$64 million, including \$61 million in fee revenue, \$1 million in fines and penalty revenue, and \$1.9 million in other revenue. Total expenditures were \$73.3 million. Revenue fell short of expenditures by \$9.3 million or 14.5 percent. Revenue fell short of the budget of \$73.4 million by \$9.4 million or 14.6 percent.

Table 1. WDPF Financial Summary

Budget	\$73,366,000
Revenue	
Fee Revenue	\$60,958,797
Fines and Penalty Revenue	\$1,081,683
Other Revenue ¹	\$1,955,652
Total Revenue	\$63,996,132
Expenditures	
NPDES Permit	\$18,499,881
NPDES Storm Water	\$17,641,027
WDR	\$15,285,363
Land Disposal	\$6,133,738
Confined Animal Facilities	\$2,564,784
SWAMP	\$6,918,229
GAMA	\$1,956,063
401 Certification	\$3,533,946
Agricultural Waivers	\$444,848
Subtotal	\$72,977,879
Other Expenditures ²	\$319,000
Total Expenditures	\$73,296,879
Over/(Under)	(\$9,300,747)

¹Income from surplus money investments and escheat of unclaimed checks

²Various state operations charges for other agencies

The \$9.3 million deficit was primarily due to higher staffing costs and program augmentations without corresponding fee increases. Even though expenditures were expected to increase by more than seven percent in FY 2007-08, the State Water Board did not raise fees to cover these increasing costs. With a large fund balance mainly

attributable to strong revenue growth from stormwater permit activity for residential construction projects, the State Water Board held fees steady and used the WDPF fund balance to absorb the deficit.

III. DISCUSSION OF CORE REGULATORY PROGRAMS

A. NPDES PERMIT PROGRAM

Water pollution degrades surface waters, making them unsafe for drinking, fishing, swimming and other activities. NPDES permits are required for all point source pollution discharges of waste into California's surface waters to prevent pollution and loss or impairment of beneficial uses of the waters, prevent damage to or loss of aquatic species and habitat, and prevent human health problems and waterborne diseases. Point sources are discrete conveyances such as pipes or man-made ditches. Industrial, municipal, and other facilities must obtain a permit if their discharges go directly to surface waters. Individual homes that are connected to a municipal sewer system, use a septic system, or do not have a surface discharge, do not need a NPDES permit.

The NPDES Permit Program is mandated by the Federal Clean Water Act and administered by the state. The Clean Water Act requires the United States Environmental Protection Agency (US EPA) to set effluent limits on discharges to surface waters to ensure protection of the receiving water. The Clean Water Act requires all persons who want to discharge pollutants to first obtain a NPDES permit. Pollutant discharges without a NPDES permit are illegal.

The Clean Water Act allows the US EPA to delegate the NPDES Permit Program to state governments, enabling states to perform many of the permitting, administrative, and enforcement aspects of the program. The US EPA retains oversight responsibilities in states that have been authorized to implement Clean Water Act programs. Since its introduction in 1972, the NPDES Permit Program has significantly improved the nation's water quality.

B. NPDES STORM WATER PROGRAM

Stormwater discharges are runoff from land and impervious areas such as paved streets, parking lots and building rooftops during rainfall and snow melt-off. These discharges often contain pollutants in quantities that could adversely affect water quality. Discharges of pollutants to stormwater conveyance systems are significant sources of pollution to surface waters. Federal law designates these discharges as point source discharges subject to a NPDES permit.

Stormwater activities are separated into three major categories: construction, industrial and municipal.

- **Construction Activities.** Stormwater runoff from construction activities can have a significant impact on water quality. As stormwater flows over a construction site, it picks up pollutants like sediment, debris, and chemicals. Polluted stormwater runoff can harm or kill fish and other wildlife. Sedimentation can destroy aquatic habitat and high volumes of runoff can cause stream bank erosion. The NPDES Stormwater Program requires operators of construction sites one acre or larger (including smaller sites that are part of a larger common plan of development) to obtain authorization to discharge stormwater under a NPDES construction stormwater permit.
- **Industrial Activities.** Runoff from activities that take place at industrial facilities, such as material handling and storage, often discharge industrial pollutants to nearby storm sewer systems and water bodies. This may adversely impact water quality. To limit pollutants in stormwater discharges from industrial facilities, the NPDES Storm Water Program regulates these activities. Operators of industrial facilities included in one of the 11 categories of "storm water discharges associated with industrial activity" that discharge storm water to a municipal separate storm sewer system or directly to waters of the United States require authorization under a NPDES industrial storm water permit.
- **Municipal Activities.** Under the NPDES Stormwater Program, operators of large, medium and regulated small municipal separate storm sewer systems (MS4s) require authorization to discharge pollutants under a NPDES storm water permit. Medium and large MS4 operators are required to submit comprehensive permit applications and are issued individual permits while small MS4 operators are covered under a general permit.

C. WASTE DISCHARGE REQUIREMENT (WDR) PROGRAM

The Water Code requires the State Water Board to establish policies to protect the state's waters through the development of Water Quality Control Plans (Basin Plans) and the issuance of WDRs. The purpose of Basin Plans and WDRs is to ensure, to the greatest extent possible, that discharges to the state's waters do not adversely affect the quality and beneficial uses of such waters.

WDRs are issued under state authority to regulate discharges to land or surface waters of the state for specified types of discharges not covered by NPDES permits. The WDR Program regulates discharges that include percolation through disposal ponds, discharges through leach fields, and irrigation of landscapes and farmland. Regulatory requirements for wastewater discharges to land are contained in California Code of Regulations (CCR) Title 23. To comply with the effluent limitations in WDRs, wastewater usually must be treated before being discharged. These discharges, unless waived under Water Code Section 13269, must meet waste discharge requirements.

D. LAND DISPOSAL PROGRAM

The Land Disposal Program regulates waste discharges to land for treatment, storage and disposal in waste management units. Waste management units include waste piles, surface impoundments, and landfills. Regulatory requirements for hazardous waste discharges are contained in CCR Title 23, Chapter 15. Regulatory requirements for non-hazardous waste discharges are contained in CCR Title 27.

E. CONFINED ANIMAL FACILITIES PROGRAM

Confined animal facilities (CAFs) are agricultural operations where animals are kept and raised in confined situations. CAFs generally congregate animals, feed, manure, dead animals, and production operations on a small land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures. Animal waste and wastewater can enter water bodies from spills or breaks of waste storage structures (due to accidents or excessive rain), and non-agricultural application of manure to cropland. CAFs that meet the regulatory definition of a concentrated animal feeding operation have the potential of being regulated under either the NPDES or WDR permitting programs.

F. SURFACE WATER MONITORING

The Surface Water Ambient Monitoring Program (SWAMP) is a comprehensive statewide monitoring program designed to assess the condition of surface waters throughout the state of California.

Administered by the State Water Board, the SWAMP Program was developed to integrate the existing water quality monitoring activities of the State Water Board and Regional Water Quality Control Boards (Regional Water Boards), and coordinate with monitoring programs of other agencies, dischargers, and citizen groups. Under the SWAMP Program, the State Water Board is responsible for statewide monitoring efforts and oversees Regional Water Board monitoring activities, while the regional water boards establish monitoring priorities for the water bodies in their jurisdictions for site-specific monitoring. To ensure statewide consistency, the SWAMP Program also specifies the protocols and methods to be used for sampling, data analysis, and data reporting.

Monitoring for the SWAMP Program is conducted through the Department of Fish and Game and US Geological Survey master contracts and Regional Water Board monitoring contracts. Among other uses, the State Water Board uses SWAMP data to evaluate water bodies for potential listing under section 303(d) of the Clean Water Act.¹ Funding for the SWAMP Program comes from an 18.5 percent surcharge assessed to holders of NPDES and stormwater permits.

¹Section 303(d) of the Clean Water Act requires states to identify waters that do not meet applicable water quality standards after the application of certain technology-based controls.

G. GROUNDWATER MONITORING

Groundwater is one of California's most valuable natural resources. Nearly half of California's population relies on groundwater for its drinking water supplies. Groundwater is the source of about 30 percent of the water for urban and agricultural use in average years and can increase to about 40 percent when surface supplies are reduced in drought years. The Legislature and the public have become increasingly concerned about groundwater quality and public supply well closures due to the detection of chemicals such as the gasoline additive MTBE, solvents from industrial sources, and more recently perchlorate.

To address these concerns, Water Code Section 10780 et al. was added in 2001 to require the State Water Board to integrate existing monitoring programs and design new program elements, as necessary, for the purpose of establishing a comprehensive monitoring program capable of assessing each groundwater basin. To meet this mandate, the State Water Board created the Groundwater Ambient Monitoring and Assessment (GAMA) Program.

The primary objective of the GAMA Program is to assess on a comprehensive basis statewide groundwater quality and gain an understanding about contamination risk to specific groundwater resources. Ambient groundwater monitoring collects physical, chemical, or biological information and data in order to evaluate the status of groundwater resources and trends of improvement or deterioration in groundwater quality, which can focus attention on priority areas where groundwater quality protection or restoration efforts are necessary. Funding for the GAMA Program comes from a nine percent surcharge assessed to holders of WDR permits and confined animal facilities operating under either a WDR or NPDES permit.

H. 401 CERTIFICATION PROGRAM

Section 404 of the Clean Water Act establishes a program to regulate discharges of dredge and fill material into waters of the United States, including wetlands. Activities in waters of the United States that are regulated under this program include fills for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports), and conversion of wetlands to lands that support farming and forestry activities.

A permit review process controls regulated activities. An individual permit is usually required for potentially significant impacts; however, for most discharges that will have only minimal adverse impacts, the Army Corps of Engineers often grants up-front general permits. These may be issued on a national, regional, or statewide basis for particular categories of activities (for example, minor road crossings, utility line backfill, and bedding) as a means to expedite the permitting process.

Under Section 401 of the Clean Water Act, states and tribes can approve, condition, or deny all federal permits or licenses that might result in a discharge to state or tribal waters, including wetlands. The major federal licenses and permits subject to Section 401 are Section 402 and 404 permits (in nondelegated states), Federal Energy Regulatory Commission hydropower licenses, and Rivers and Harbors Act Section 9 and 10 permits. States and tribes may choose to waive their Section 401 certification authority. States and tribes make their decisions to approve, condition, or deny permits or licenses primarily on the basis of whether the activity will comply with state water quality standards. In addition, states and tribes look at whether the activity will violate effluent limitations, new source performance standards, toxic pollutants, and other water resource requirements of state/tribal law or regulation.

I. IRRIGATED LANDS REGULATORY PROGRAM

The Irrigated Lands Regulatory Program regulates discharges from irrigated agricultural lands, which includes irrigation return flow, flows from tile drains, and stormwater runoff. These discharges can affect water quality by transporting pollutants including pesticides, sediment, nutrients, salts, pathogens, and heavy metals from cultivated fields into surface waters.

Many surface water bodies are impaired because of pollutants from agricultural sources. Groundwater bodies have also suffered pesticide, nitrate and salt contamination. Statewide, approximately 9,493 miles of rivers/streams and some 513,130 acres of lakes/reservoirs are listed on the 303(d) list as being impaired by irrigated agriculture. Of these, approximately 2800 miles, or approximately 28%, have been identified as impaired by pesticides.

To control and assess the effects of discharges from irrigated agricultural lands, the Los Angeles, Central Coast, Central Valley, and San Diego Regional Water Quality Control Boards have adopted comprehensive conditional waivers. These Regional Water Boards have made significant strides to implement their waiver programs and are committed to continue their efforts to work with the agricultural community to protect and improve water quality.

Requests for Information

Questions concerning the information provided in this report or requests for additional information should be sent to:

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