California Regional Water Quality Control Board

San Diego Region

David Gibson, Executive Officer

Executive Officer's Report

February 12, 2014

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Part A – San Diego Region Staff Activities

1. Personnel Report

Staff Contact: Lori Costa

The Organizational Chart of the San Diego Water Board can be viewed at http://www.waterboards.ca.gov/sandiego/about_us/org_charts/orgchart.pdf

Departures
Eric Rosenbaum, an Office Technician in the Mission Support Services Unit, left state service in January 2014. He started working for the San Diego Water Board in July 2012. Eric was our Records Coordinator primarily responsible for responding to public records requests and records management.

Recruitment
We have begun the process to recruit for a Staff Services Analyst and an Office Technician in the Mission Support Services Unit, an Engineering Geologist in the Southern Cleanup Unit, and a Scientific Aid in the Wetland and Riparian Protection Unit.

2. File Records Requests

Staff Contact: Lori Costa

Per the California Public Records Act, when a member of the public requests to inspect a public record or obtain a copy of a public record, each agency shall, within 10 days, determine whether the request seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. Once the requested records are ready for review, the records coordinator schedules a date and time for the requestor to review the files.

The San Diego Water Board receives most of their requests by email (rb9_records@waterboards.ca.gov) and some by fax. The records coordinator received 67 records requests in September, 42 in October, 58 in November, and 71 in December 2013.

3. Environmental Health Coalition "Barrio Live!" Event

Staff Contact: James Smith

The Environmental Health Coalition (EHC) hosted a "Barrio Live!" event to highlight challenges and successes seen in the neighborhoods of National City and Barrio Logon on 6 December 2013. The event included a tour of the area, stories from residents about their struggles and victories, and an opportunity to meet other stakeholders. Residents also shared poignant stories about environmental health concerns that included one home in which chromium levels were 20 times above Cal OSHA standards for industrial workers.

Assistant Executive Officer Jimmy Smith attended and shared conversations with staff and board members of the EHC, Coastkeeper, environmental attorneys and area business staff working to build green and sustainable homes. Highlights included a new affordable housing project that will simultaneously improve Paradise Creek and a new center for "green" auto body industries. These neighborhoods are located immediately inland from south central San Diego Bay and are challenged by mixed zoning regulations that see plating shops immediately adjacent to homes, and auto repair facilities across the street from schools. Despite these challenges, the community is also home to the nationally recognized landmark that is Chicano Park, historic homes and a burgeoning market scene focused on Hispanic merchandise. The EHC is often involved in water quality issues and is "…dedicated to achieving environmental and social justice." The EHC encourages everyone to take an active role in the health of their communities to "…improve the health of children, families, neighborhoods and the natural environment…."

4. New USEPA Water Division Director Visits San Diego Water Board

Staff Contact: Dave Gibson

Region 9 of the U.S. Environmental Protection Agency has a new Director of the Water Division. In her new capacity, Jane Diamond is visiting each of the Regional Water Boards to discuss hot topics and priority issues. She came to San Diego on January 28, 2014, to meet with Executive Officer Gibson and was accompanied by John Kemmerer, Cindy Lin and Doug Liden of the USEPA. Highlights of the conversation included:

- USEPA's strong support for the development of biological objectives;
- Interest in joining the San Diego Water Boards efforts to develop a coordinated San Diego Bay water quality improvement strategy;
- A broad discussion of existing National Pollutant Discharge Elimination System (NPDES) permits, with a particular focus on the current re-evaluation of the regulation of the International Boundary and Water Commission (IBWC) waste water treatment plant.
- Discussion of how the USEPA is touting the San Diego Water Boards Regional MS4 permit as a model in national conversations.

The visit also included a tour of the lower portion of the Tijuana River Valley that included stops at Spooner's Mesa, the Goat Canyon sediment basins and Friendship Park. Along the way, ample discussion centered on the challenges and opportunities faced by the Tijuana River Valley Recovery Team. Ms. Diamond continues her statewide discussions in the months ahead and may return to San Diego in late February to join the Management Coordinating Committee (MCC[1]) Meeting at the office of the San Diego Water Board.

[1] The MCC is composed of the Regional Officers of the nine Regional Water Boards, and the Executive Director, Chief Deputy Directors, Chief Counsel and Division Directors of the State Water Board.

5. Proposed Improvements to Processing Mandatory Penalties (*Attachment A-5*)

Staff Contact: Chiara Clemente

Staff intends to ask the Board to consider delegating the evidentiary hearing process to the Executive Officer for mandatory penalties issued pursuant to Water Code Section 13399.33 based on a similar recommendation from the State Water Board Office of Enforcement for mandatory minimum penalties (MMPs) issued pursuant to Water Code section 13385(h-i).

Office of Enforcement Recommendations for Section 13385 Mandatory Penalties
In response to a pending review of the 2009 Enforcement Policy, the State Water Board Office of Enforcement has provided recommendations to address various procedural and administrative burdens with MMPs (Memo, see Attachment A-5). Problems cited are familiar to the San Diego Water Board, including the excessive amount of time devoted to 1) resolving MMPs with non-responsive dischargers, 2) investigating technical details regarding compliance assessments, 3) resolving legal arguments regarding affirmative defenses, and 4) holding adjudicatory hearings.

Recommendations include streamlining the administrative process in both contested and uncontested cases and updating a 2001 MMP Question and Answer document to further address disputes regarding compliance determinations and legal arguments.

We support both these recommendations and have already instituted a streamlined administrative review process for uncontested mandatory penalty cases through the use of Expedited Payment Letters (EPLs) approved by the Executive Officer. This process was endorsed by the Board in February 2011, and has been very effective. In fact, all five of the MMP penalty assessments issued in 2013 were resolved through the use of EPLs. For this reason, the San Diego Water Board does not have a large administrative burden with issuing MMPs to NPDES dischargers.

San Diego Water Board Staff Recommendation for Section 13399.33 Mandatory Penalties
We do, however, devote a disproportionately large amount of time to issuing mandatory penalties pursuant to Water Code Section 13399.33 to industrial storm water dischargers who fail to enroll in the statewide general permit or submit monitoring reports. Delegating the evidentiary hearing process to the Executive Officer, as proposed in page 5 of the attached Office of Enforcement Memo for MMPs, could greatly reduce the administrative burden for contested mandatory penalties issued pursuant to Water Code Section 13399.33.

Like Water Code section 13385 MMPs, these penalties are not discretionary. However, the dischargers receiving these penalties have been more likely to ignore or dispute the penalty, thereby negating the benefits of the streamlined EPL process. For example, the last penalty issued for such violations (Stipulated ACL Order No. R9-2013-0135 for $4,251 to Enniss, Inc.) required approximately 63 prosecution staff hours to bring to completion. That excludes the time spent by the Board and its Advisory Staff.

This delegation would allow the Executive Officer to evaluate evidence and make final determinations on behalf of the Board on certain contested penalty hearings. Through the Board's delegation action, the Board would specify the conditions under which delegation would occur (e.g. only for mandatory penalties, penalties under a certain dollar amount, or a

combination thereof). Even in cases where the Executive Officer has been given delegated authority to hold a hearing, if the conditions of a particular case are such that the Executive Officer believes the Board is best suited or would desire to take action on a matter, the Executive Officer retains the ability to schedule any item before the Board. As with Board actions, all determinations made by the Executive Officer would be petitionable to the State Water Board. In summary, the purpose of such a delegation would be to minimize staff and Board time spent on mandatory penalty cases, thereby creating more time to focus on other priority enforcement actions.

Staff intends to prepare a tentative Resolution o delegated authorities for the Board to consider at a future meeting.

Part B – Significant Regional Water Quality Issues

1. Gas Fracturing – an Alternative to Hydraulic Fracturing

Staff Contact: Julie Chan

As recently as 2012, about 95 percent of all petroleum well fracturing in the United States was done with water. Due to water scarcity, especially in the drought plagued western states, another method is beginning to gain favor – fracking with liquefied petroleum gas (LPG).

The U.S. Environmental Protection Agency estimated that in 2010, between 70 billion and 140 billion gallons of water were used in fracturing or "fracking" processes. The amount of water consumed in fracking a well typically ranges from 0.6 to 1.8 gallons per million British Thermal Units (BTUs) of energy produced. In water-based, or hydraulic fracking, 20 percent or more of the water used returns to the surface from the well and must be treated and disposed.

One leading alternative that is increasing in use is fracking with LPG. This technology was developed and used in Calgary, Alberta in 2008, and allows fracking to be done with propane, butane or pentane – or mixtures of those gases – as a substitute for water. GasFrac, the company that developed the technology, initially used propane, but the company now uses butane and pentane, as well. These gases are already found in natural gas wells. Because it does not use water, the LPG technology shows promise for use in the drought stricken west.

In LPG technology, a gel containing sand or anthropogenic materials is pumped into the target formation, creating enough pressure to hold cracks open far below the surface and allowing gas to escape. This fracking material has low viscosity and low surface tension, compared with the surface tension of water. Initial well yields appear to be greater with LPG technology, and total yields can be as much as 30 percent higher than if the well were fractured with water according to GasFrac. After the pressure and heat turn the gel into a vapor, it moves up to the surface, where it can be collected and sold. Unlike hydraulic fracturing, gas fracking allows other materials, such as salts, drilling chemicals, or radioactivity, to remain in the ground. Also in its favor, the LPG method uses only about one quarter of the number of truck trips that water-based fracturing uses, reducing the impacts on local roads, fuel consumption, air emissions, and the noise and dust annoyance to neighbors.

In a March 2013 article, the Texas Tribune reported that fracturing with LPG remains an early-stage technology, with potentially higher initial costs than conventional fracking methods. GasFrac has brought the technology to Texas where it has done roughly 100 fracks.

The main opposition to LPG fracking is safety. LPG is flammable, so additional safety measures are required for its use. Also, since water has been used in fracking since 1940, and the global drilling industry has invested vast amounts of capital in that technology, change to other fracking media may come slowly. The oil industry is exploring other fracking technologies to reduce water use. British Petroleum is researching the potential of carbon dioxide and nitrogen as the fracturing media. Marathon Oil has begun using a new formula described as "guar mix commonly used in ice cream and other food products" to reduce its water use by 45 percent per well.

2. San Diego Unified Port District's 50-Year Master Plan

Staff Contact: Melissa Valdovinos

The San Diego Unified Port District (Port District) is updating its Master Plan. The current Master Plan was developed in 1980 and since then 35 amendments have been incorporated.

The Port District created the web site www.portforall.org to inform stakeholders on the process of updating the Master Plan. It includes background information and frequently asked questions, and allows stakeholders to email questions and comments. The Port District has also conducted several tours and meetings to gather stakeholder input. San Diego Water Board staff participated in two of these events, October 23 and December 3, 2013, and provided input related to:

1. Integrating Port District and San Diego Water Board water quality efforts in the Master Plan;
2. Incorporating the Port District's environmental stewardship duties in the planning process for all current and future projects; and
3. Identifying overlapping priorities/values shared in maritime industry, tourism, water and land recreation, environmental stewardship, and/or public safety to take advantage of those synergies.

The Port District expressed interest in interviewing David Gibson in order to incorporate additional San Diego Water Board input in the Master Plan.

The updated Master Plan will be designed to guide the Port District's waterfront development in a way that supports balance between maritime industry, tourism, water and land recreation, environmental stewardship, and public safety. The Port estimates that five to seven years may be required to complete the entire Master Plan update process. The current phase, "*Phase I: Vision Plan to include the Guiding Principles and Vision Statement for the Port Master Plan,"* is anticipated to last nine months and be completed by mid-2014.

The Port District plays a key role in San Diego Bay environmental stewardship, including water quality protection. The 1962 San Diego Unified Port District Act (Port Act) that established the Port District to develop San Diego Bay for "multiple purpose use for the benefit of the people" grants the Port District powers and authority to protect, preserve, and enhance 1) the physical access to the Bay, 2) the natural resources of the Bay, including plant and animal life, and 3) the quality of water in the Bay. The Port District has carried out its environmental stewardship responsibilities in the form of various policies and programs, such as the Green Port Policy, the Jurisdictional Urban Runoff Management Program, the Regional Harbor Monitoring Program, and the Integrated Natural Resources Management Plan.

A Master Plan that can acknowledge how powerful the Port District's role is with respect to its authority and responsibility as an environmental steward, and that can tangibly establish how the Port District will carry out that environmental stewardship in its planning, is an exciting prospect.

3. New Waste Management Unit at Sycamore Landfill Ready to Receive Wastes

Staff Contact: Amy Grove

Sycamore Landfill Inc., a subsidiary of San Diego Landfill Systems, recently completed constructing the new Stage III-B waste management unit (Unit) of the Sycamore Landfill. The new Unit adds approximately 10 acres of air space and one million cubic yards (~750,000 tons) of waste disposal capacity to the Sycamore Landfill. The San Diego Water Board reviewed the final construction quality assurance report, conducted the certification inspection for the new Unit, and deemed it ready to receive wastes.

New Stage III-B Unit at the Sycamore Landfill

4. Public Process Begins for Tentative General Waste Discharge Requirements for Commercial Agricultural and Nursery Operations

Staff Contact: Roger Mitchell

Staff has progressed on several fronts regarding the development of tentative General Waste Discharge Requirements and a Monitoring and Reporting Program for Discharges of Waste from Commercial Agricultural and Nursery Operations within the San Diego Region (Ag WDRs). If adopted by the San Diego Water Board, the Ag WDRs will replace the Conditional Waiver of Waste Discharge Requirements for Dischargers from Agricultural and Nursery Operations within the San Diego Region (Ag Waiver).

To implement the goals of the Practical Vision for proactive public communication and outreach, Staff is engaged in reaching out to potential stakeholders by providing information via our web page,[2] conducting meetings and workshops that encourage stakeholder participation, and soliciting informal stakeholder comments and questions on the draft Ag WDRs documents. To promote transparency and public communication during the Ag WDRs development process, Staff is:

- Building an email subscription list. Through this list,[3] Dischargers will receive important notifications and documents. Staff is actively engaged in reaching out to all potential stakeholders through, for example Farm Bureau Newsletter notices, and encouraging stakeholders to subscribe and participate in the Ag WDRs development process.

- Creating progressive webpage resources. Through the San Diego Water Board's "Regulations of Irrigated Agriculture and Nurseries" website, stakeholders are provided access to current, valid, and vital information. Staff recently created a separate page specific to the development of the Ag WDRs, providing links to the draft Ag WDRs, associated CEQA Initial Study and Environmental Checklist, stakeholder meeting notifications and agenda, and stakeholder comments.

- Conducting stakeholder meetings/workshops. Staff is meeting with various stakeholder groups and the general public, to improve communication and public involvement in the Ag WDRs development process. Staff has successfully met with several stakeholders listed in Table 1 below. Staff has reached out to the stakeholder listed in Table 2 below, but so far has been unsuccessful in scheduling a meeting.

  Staff convened an informal stakeholder meeting, on January 22, 2014, to discuss the administrative draft of the CEQA Initial Study and Environmental Checklist to get input on the scope of potential environmental impacts associated with the adoption and implementation of the draft Ag WDRs.

- Translating documents. Staff is working with the State Water Resources Control Board to convert important Ag WDRs documents and materials into languages spoken by minority groups engaged in agricultural and nursery operations within the San Diego region.

Table 1: Completed Stakeholder Group Meetings

Stakeholder Group	Meeting Date
De Luz Group (currently forming)	November 26, 2013
Hines Growers[1,2]	December 3, 2013
Mr. Charlie Wolk[1] (former San Diego Water Board member)	December 18, 2013
Mission Resource Conversation District[1] (RCD)	December 3, 2013

[2] http://www.waterboards.ca.gov/sandiego/water_issues/programs/irrigated_lands/irrigated_ag.shtml, per Proactive Public Outreach and Communication chapter of Practical Vision.

[3] http://www.waterboards.ca.gov/resources/email_subscriptions/reg9_subscribe.shtml

Rainbow Monitoring Group[1] (currently forming)	December 3, 2013
RCD of Greater San Diego County[1]	December 19, 2013
San Diego Farm Bureau[1]	November 6, 2013
San Diego Irrigated Lands Group[1,2]	December 3, 2013
San Mateo Irrigated Lands Group[1,2]	December 11, 2013
United States Department of Agriculture, Natural Resources Conservation District[1]	January 10, 2014
University of California Cooperative Extension[1]	December 3, 2013

[1] – Stakeholder groups which received an administrative draft of the Ag WDRs for preliminary review and comments.
[2] – Stakeholder provided preliminary comments of administrative draft Ag WDRs.

Table 2: Proposed/Invited Stakeholders Groups Meetings

Stakeholder Group
Elsinore Murrieta Anza RCD[3]
Orange County Farm Bureau[3]
Riverside County Farm Bureau[3]
Mr. Ben Drake[3]
Mr. Gary Woodworth[3]
Upper San Luis Rey RCD[3]
Upper Santa Margarita Irrigated Lands Group[3]

[3] – Stakeholder groups which received an administrative draft of the Ag WDRs for preliminary review and comments.

On January 23, 2014, Staff provided stakeholders with the draft Ag WDRs, which incorporates a monitoring and reporting program, consistent with the Monitoring Framework adopted in 2012 by the San Diego Water Board. Staff anticipates holding several informal public meetings/workshops throughout the year, which will lead up to a tentative board workshop in late 2014, and tentative board hearing date in mid-2015.

5. Los Peñasquitos Lagoon Sediment Total Maximum Daily Load (TMDL) Approved by State Water Board

Staff Contact: Charles Cheng

The State Water Resources Control Board (State Water Board) on January 21, 2014, approved an amendment to the Water Quality Control Plan for the San Diego Region (Basin Plan) to incorporate a sediment Total Maximum Daily Load (TMDL) for Los Peñasquitos Lagoon. This hearing marked the first time San Diego Water Board staff were responsible for shepherding a regional item through the State Board adoption process (formerly, State Board staff would present items to the State Board). The State Water Board members recognized the project as a "great TMDL" because it establishes an ecological-based endpoint and was developed with extensive participation from both regulated and other interested parties in the Lagoon's watershed. The TMDL sets deadlines for salt marsh habitat restoration in the lagoon and sediment reduction from regulated activities in the watershed.

Los Peñasquitos Lagoon is one of the few remaining and irreplaceable coastal lagoons in southern California providing valuable estuarine habitat as well as numerous other important

beneficial uses. Over the course of the 20th century, the Lagoon has incurred a number of anthropogenic disturbances which cumulatively have resulted in excessive sedimentation and the gradual degradation and loss of the estuarine habitat.

The Lagoon is impaired due to sediment-associated impacts and is not meeting the water quality objective for sediment. The beneficial uses that are most easily impaired by increased sedimentation are those associated with protection of aquatic life (e.g., Estuarine Habitat, Marine Habitat, Rare, Threatened, or Endangered Species, and Preservation of Biological Habitats of Special Significance, etc.).

As required by Clean Water Act (CWA) section 303(d), the Los Peñasquitos Lagoon was placed on the 1996 List of Water Quality Limited Segments due to sedimentation and siltation loads that exceeded water quality objectives. In response to this impairment and the requirements of CWA section 303(d), the San Diego Water Board initiated development of a sediment TMDL for the Lagoon in 2009. A third party stakeholder group was assembled and asked to assist Water Board staff in the TMDL development process and decision-making with an emphasis on the technical analysis and numeric targets. The Los Penasquitos Lagoon Sediment TMDL is the first "third party stakeholder driven" TMDL adopted in the San Diego Region.

The TMDL and Basin Plan Amendment were adopted by the San Diego Water Board in June 2012. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL). The TMDL must also receive approval from the U.S. Environmental Protection Agency (U.S. EPA). Staff will continue to update the Board as the TMDL moves through this process.

Information about the TMDL is available at: http://www.waterboards.ca.gov/sandiego/water_issues/programs/tmdls/los_penasquitos_lagoon.shtml.

6. Sanitary Sewer Overflows (SSOs) – September through December 2013 (*Attachment B-6*)

Staff Contact: Joann Lim

This report summarizes the public and private sewage overflows, or "spills" that occurred during the months of September through December 2013. All reports for spills that occurred during these months are required to be submitted before or by January 30. This report includes all the spills during these months that were submitted and certified online by January 23, 2014. Sewage collection agencies submit public and private spill reports on-line using the CIWQS database as required by the general Waste Discharge Requirements for Sewage Collection Agencies[4] or by an individual NPDES permit[5]. Reports on sewage spills are available on a real-time basis to the

[4] Order No. WQ 2013-0058-EXEC and Order No. R9-2007-0005.

[5] Marine Corp Base Camp Pendleton reports sewage spills as required by its individual NPDES permit (Order No. R9-2013-0112, NPDES Permit No. CA0109347, *Waste Discharge Requirements for the Marine Corps Base, Camp Pendleton, Southern Regional Tertiary Treatment Plant and Advanced Water Treatment Plant, Discharge to the Pacific Ocean via the Oceanside Ocean Outfall*). The U.S. Marine Corps Recruit Depot is not required to report sewage spills but does voluntarily report spills online. The U.S. Navy also is not required to report sewage spills.

public from the State Water Board's webpage at: https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/PublicReportSSOServlet?reportAction=criteria&reportId=sso_main.

Public and Federal Spills: During September 2013, there were 26 sewage spills from public and federal systems in the San Diego Region certified in the CIWQS database. These included five spills of 1,000 gallons or more, and no spills reaching surface waters, including storm drains. The combined total volume of reported sewage spilled from all publicly-owned and federally-owned collection systems for the month of September 2013 was 22,263 gallons.

During October 2013, there were 21 sewage spills from public and federal systems in the San Diego Region certified in the CIWQS database. These included five spills of 1,000 gallons or more, and no spills reaching surface waters, including storm drains. The combined total volume of reported sewage spilled from all publicly-owned and federally-owned collection systems for the month of October 2013 was 19,973 gallons.

During November 2013, there were 22 sewage spills from public and federal systems in the San Diego Region certified in the CIWQS database. These included four spills of 1,000 gallons or more, and two spills reaching surface waters, including storm drains. The combined total volume of reported sewage spilled from all publicly-owned and federally-owned collection systems for the month of November 2013 was 18,633 gallons.

During December 2013, there were 22 sewage spills from public systems and federal systems in the San Diego Region reported in the CIWQS database. These included four spills of 1,000 gallons or more, and 10 spills that reached surface waters including storm drains. The combined total volume of sewage spills reported from all publicly-owned collection systems for the month of December 2013 was 61,576 gallons.

Reported Private Spills: Fifty-one spills of untreated sewage from private laterals were reported during the months of September through December 2013 by the collection agencies as required by the San Diego Water Board's *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region*.[6] These private lateral spills included no spills of 1,000 gallons or more and seven spills that reached surface waters, including storm drains. The combined total volume of reported sewage spills from private lateral systems for the months of September through December 2013 was 3,413 gallons.

Year-Over-Year Comparison:

Month	Rainfall Total (In.)	Public and Federal Spills	Private Spills
September 2012	Trace	9	21
September 2013	Trace	26	6
October 2012	0.70	15	15

The U.S. Navy voluntarily faxes in its sewage spill report, but does not use the online reporting system (CIWQS). Thus, this report does not include spills from the U.S. Navy.

[6] Order No. R9-2007-0005

October 2013	0.25	21	9
November 2012	0.43	17	15
November 2013	1.48	22	20
December 2012	2.28	15	10
December 2013	0.46	22	16

Details on the reported public and private spills are provided in five attached tables titled:

1. September 2013 Summary of Public Sanitary Sewer Overflows in Region 9
2. October 2013 Summary of Public Sanitary Sewer Overflows in Region 9
3. November 2013 Summary of Public Sanitary Sewer Overflows in Region 9
4. December 2013 Summary of Public Sanitary Sewer Overflows in Region 9
5. September - December 2013 Summary of Private Lateral Sewage Discharges in Region 9

Additional information about the San Diego Water Board sewage overflow regulatory program is available at: http://www.waterboards.ca.gov/sandiego/water_issues/programs/sso/index.shtml.

7. Quarterly Dredge and Fill Project Action Report, October through December 2013 (*Attachment B-7*)

Staff Contact: Mike Porter

Section 401 of the Clean Water Act (CWA) requires that any person applying for a federal permit, which may result in a discharge of pollutants into waters of the United States, obtain a water quality certification (401 Certification) that the specific activity complies with all applicable state water quality standards, limitations, requirements, and restrictions. The most common federal permit that requires a 401 Certification is a CWA Section 404 permit, most often issued by the Army Corps of Engineers, for the placing of fill (sediment, rip rap, concrete, pipes, etc.) in waters of the U.S. (i.e. ocean, bays, lagoons, rivers and streams).

Upon receipt of a complete 401 Certification application, the San Diego Water Board may either certify the project or deny certification, with or without prejudice. In cases where there are impacts to waters of the U.S., the San Diego Water Board may issue a conditional certification. The certification can be either in the form of a conditional certification document approved by the Executive Officer, or Waste Discharge Requirements (WDRs) adopted by the San Diego Water Board. In the case where a federal permit is not required because impacts have been determined to be only to waters of the State, the San Diego Water Board may adopt WDRs.

Table B-7 (attached) contains a list of actions taken during the months of October, November, and December 2013. The first page of the Table summarizes the total impacts to waters of the United States and State and the proposed mitigation for the individual months and quarter. This information is an imprecise measure of the actual conditions. For example, the data can be skewed depending on what is considered "self-mitigating" and how mitigation is categorized (i.e. establishment, restoration, or enhancement). Another limitation is that the data relies on the assumption that all the mitigation required is implemented and successful, and does not take into consideration any additional impacts resulting from illegal fill activities.

Public notices for 401 Certification applications can be found on the San Diego Water Board 401 Certification web site at:
http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/index.shtml.

401 Certifications issued since January 2008 can also be found on the San Diego Water Board web site at:
http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/401projects.shtml.

For a complete list of State Water Board issued general orders, please refer to
http://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.shtml.

8. Enforcement Actions for November and December 2013 (*Attachment B-8*)

Staff Contact: Chiara Clemente

From November 1 to December 31, 2013, the San Diego Water Board issued approximately 57 enforcement actions as follows; 1 Time Schedule Order, 2 Administrative Civil Liability Orders, 1 Administrative Civil Liability Complaint, 1 Cleanup and Abatement Order, 1 Cleanup and Abatement Order Amendment, 5 Notices of Violation, 29 Notices of Noncompliance, and 17 Staff Enforcement Letters (SELs). A summary of each enforcement action taken is provided in Attachment B-7. The State Water Board's Enforcement Policy contains a brief description of the kinds of enforcement actions the Water Boards can take.

The vast majority of the enforcement actions issued during this period were focused on noncompliance with the Statewide Industrial Storm Water (ISW) Permit, NPDES Order No. 97-03-DWQ. Stormwater staff made significant efforts in assessing and obtaining compliance within the ISW program. Critical elements of the ISW permit include the requirement to enroll, develop and implement a Stormwater Pollution Prevention Plan (SWPPP), implement and maintain Best Management Practices (BMPs), and submit an annual monitoring report. Pursuant to Water Code Section 13399.33, failure to enroll in the ISW Permit and failure to submit annual monitoring reports are each subject to mandatory penalties of no less than $5,000 and $1,000 respectively, plus staff costs. This year, in addition to enforcing these mandatory penalties, staff is drawing heightened awareness to inadequate SWPPPs and BMPs.

Additional information on violations, enforcement actions, and mandatory minimum penalties is available to the public from the following on-line sources:

State Water Board Office of Enforcement webpage:
http://www.waterboards.ca.gov/water_issues/programs/enforcement/

California Integrated Water Quality System (CIWQS):
http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml

State Water Board GeoTracker database:
https://geotracker.waterboards.ca.gov/

Part C – Statewide Issues of Importance to the San Diego Region

1. Drought and Water Supply Conditions (*Attachment C-1*)

Staff Contact: Julie Chan

Water year 2014 is shaping up to be dry, and if conditions hold, will be the third consecutive dry year in California. According to the U.S. Drought Monitor, almost the entire state of California is in a severe drought, with the southern San Joaquin Valley and Central Coast areas in an extreme drought (see Attachment C-1). According to the Department of Water Resources (DWR), precipitation in the State has this water year tracking as the driest in 119 years of record. For the northern Sierra, only 3.3 inches of precipitation have fallen since the start of the water year on October 1, 2013. Average precipitation for this period is 17.7 inches. The first of several snowpack surveys released by the DWR on January 10 reported only 20 percent of average snow for this time of year. About half of the state's precipitation occurs in December, January, and February. DWR's experimental seasonal forecast for the remainder of the water year predicts mostly dry conditions for the State. Water year 2014 began on October 1, 2013 and ends on September 30, 2014.

Newspapers across the State are reporting on actions water suppliers have taken in light of the dwindling supply. Both voluntary and mandatory conservation measures are in effect in several northern California cities. In Santa Cruz, the city has barred restaurants from serving drinking water unless diners request it. In Marin County, residents are asked not to clean their cars, or to do so only at eco-friendly car washes. In towns in Sonoma and Mendocino counties, homeowners are facing restrictions on when they can water lawns. The City of Folsom, near Sacramento, has ordered residents and businesses to reduce water consumption by 20 percent, and Sacramento is expected to do the same. The San Juan Water District which serves more than 265,000 people in Sacramento County has asked customers to stop all outdoor watering. Mendocino County has declared a drought emergency and became the first county to ask the State for help with its water supply.

The San Diego Region's other main source of supply is the Colorado River, which is in the fourteenth year of a drought. In light of the continuing drought, the U.S. Bureau of Reclamation will for the first time decrease the amount of water that flows into Lake Mead, the nation's largest reservoir, from Lake Powell 180 miles upstream. That will reduce even more the level of Lake Mead, a crucial source of water for cities and farms in southern California. Reclamation officials say there is a 50-50 chance that by 2015, Lake Mead's water will be rationed to states downstream. That, too, has never happened before.

Governor Brown formally declared a drought emergency in California on January 17, which allows California to request a broad emergency declaration from President Obama. A federal declaration would expedite some water transfers, provide some financial assistance, and suspend some State and federal regulations. The Governor encouraged people to voluntarily conserve water, but said he is considering a mandatory conservation order.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

Significant NPDES Permits, WDRs, and Actions of the San Diego Water Board

February 12, 2014

APPENDED TO EXECUTIVE OFFICER'S REPORT

DATE OF REPORT
February 5, 2014

TENTATIVE SCHEDULE
SIGNIFICANT NPDES PERMITS, WDRS, AND ACTIONS
OF THE SAN DIEGO WATER BOARD

Action Agenda Item	Action Type	Draft Complete	Written Comments Due	Consent Item
March 12, 2014 ***San Diego Water Board***				
Update on Efforts of the Tijuana River Valley Recovery Team *(Valdovinos)*	Information Item	NA	NA	NA
Update on the Cleanup of the A8 Anchorage, San Diego Bay *(Becker)*	Information Item	NA	NA	NA
Update on the Surface Water Ambient Monitoring Program *(Busse and Loflen)*	Information Item	NA	NA	NA
Update on Statewide Biological Objectives *(Haas)*	Information Item	NA	NA	NA
April 9, 2014 ***Mission Viejo***				
Plan for Monitoring Coordination along Coastal Beaches in Southern Orange County *(Posthumus)*	Information Item	NA	NA	NA
Administrative Civil Liability against the City of Encinitas and USS Cal Builders *(Neill)*	ACL Complaint	100%	15-Jan-2014	No
May 14, 2014 ***San Diego Water Board***				
Update on the Statewide Plan on Trash, and efforts by the Copermittees Responsible for Trash in the San Diego River Watershed	Information Item	NA	NA	NA
Basin Plan Update to Incorporate Requirements of the State Water Board's Policy for Onsite Wastewater Treatment Systems *(Osibodu and Ebsen)*	Basin Plan Amendment	25%	TBD	No
Resolution Providing Direction and Intent Regarding Protection and Restoration of Wetlands: (Triennial Review Project P-1) (*Woodward)*	Tentative Resolution	20%	TBD	No

CALIFORNIA Water Boards

EDMUND G. BROWN JR. GOVERNOR

MATTHEW RODRIQUEZ SECRETARY FOR ENVIRONMENTAL PROTECTION

State Water Resources Control Board

TO: Thomas Howard
Executive Director

FROM: Christian M. Carrigan
Director
OFFICE OF ENFORCEMENT

DATE: October 22, 2013

SUBJECT: **MMP ISSUE WHITE PAPER**

I. EXECUTIVE SUMMARY OF ISSUES DISCUSSED

This memorandum identifies problems relating to the Water Boards' implementation of the Mandatory Minimum Penalty (MMP) statute, discusses some of the causes of those problems, and makes recommendations about how to improve efficiencies with respect to implementing the MMP statute.

The Office of Enforcement's (OE) development of an Expedited Payment Letter (EPL) protocol to screen out uncontested MMP cases has resulted in high-level efficiencies for uncontested cases, and has eliminated many of the inefficiencies that plagued the Water Boards' early efforts to implement the statutory scheme. Nearly 75 percent of MMP cases are resolved efficiently through this process without being contested by dischargers. Other MMP-related protocols developed by the Office of Information Management and Analysis (OIMA), in consultation with OE, have resulted in greater efficiencies in compliance determinations by staff and a high level of transparency with respect to the implementation of the MMP statute. However, substantial inefficiencies remain with respect to how the Water Boards resolve contested MMP cases.

Between 2009 and 2012 alone, the MMP statute generated a little more than $20 million in funds for the Cleanup and Abatement Account, Supplemental Environmental Projects (SEPs), and Compliance Projects for small, disadvantaged communities. Of this $20 million, over $17 million was paid by dischargers without being contested, while just over $3 million was paid by dischargers after being ordered to do so at a contested adjudicatory hearing. *See* Table 1.

Table 1 – MMP Actions in Dollars

	Uncontested	Contested
2009	$6,291,859	$ 814,000
2010	$3,298,875	$ 711,000
2011	$4,535,573	$1,060,000
2012	$3,267,051	$ 466,500
Total	**$17,393,358**	**$3,051,500**

OE estimates that considerably more staff time has been expended issuing MMP orders for the approximately $3 million in penalties obtained at contested adjudicatory hearings than has been expended with respect to the over $17 million in penalties that were not contested, including SEP and Compliance Project approval and oversight.

OE proposes to adopt the EPL protocols in every region to streamline implementation of the MMP process in uncontested cases. To achieve greater efficiency while, at the same time, providing an appropriate level of due process, OE proposes adoption of a streamlined administrative proceeding for contested MMP cases, and the creation and broad distribution of updated Question and Answer (Q & A) documents addressing common technical and legal arguments raised by the regulated public. Implementing these recommendations does not require statutory or regulatory amendments.

Finally, due to the MMP statute's demonstrable effect on late reporting violations, OE provides a discussion of the possibility of expanding the MMP statute to encompass late reporting violations for other core regulatory NPDES programs, such as Non-15, Title 27 and 401 Water Quality Certification. We recommend more study before undertaking such an expansion, which would require a statutory amendment.

II. BRIEF BACKGROUND OF MMP STATUTE

A. MMPs Defined

California Water Code section 13385(h)[1] **requires** the assessment of a $3,000 MMP for each "serious" violation. A "serious" violation is defined as any waste discharge that exceeds the effluent limitation for a Group I pollutant by 40 percent or more, a Group II pollutant by 20 percent or more, or failure to file a discharge monitoring report for each complete period of 30 days the report is late. The Water Boards are also required by section 13385(i) to assess a $3,000 MMP for multiple non-serious or "chronic" violations. These MMPs apply when the discharger does any of the following four or more times in any period of six consecutive months:

- Violates effluent limits;
- Fails to file a report of waste discharge (ROWD) pursuant to section 13260;
- Files an incomplete ROWD pursuant to section 13260; or
- Violates a toxicity effluent limitation where the Waste Discharge Requirements (WDRs) do not contain pollutant-specific effluent limitations for toxic pollutants.

The statute provides no discretion for the Water Boards to settle or compromise the MMP for less than $3,000 per violation, but it does allow them to consider imposing a discretionary liability of up to $10,000 per violation plus up to $10 per gallon of waste discharged.

B. Affirmative Defenses and Exemptions from the MMP Requirements

Section 13385(j) enumerates limited affirmative defenses and exemptions to the MMP provisions. The affirmative defenses and exemptions are listed in sections 13385(f), and (j)(1) - (j)(3): single operational upset; act of God; act of war; effect of natural disaster that could not have been prevented by exercising due care and foresight; intentional act of a third party; operation of a new or reconstructed treatment plant, under specified circumstances; and discharge allowed by a Cease and Desist and/or Time Schedule Order issued by the Water Boards.

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[1] All further statutory references are to the California Water Code and will be cited simply as "section" followed by the section number unless expressly indicated otherwise.

III. REALIZATION OF BENEFITS AND EFFECTIVENESS OF CURRENT EFFORTS BY OE AND REGIONAL WATER BOARDS TO IMPLEMENT THE MMP STATUTE

A. EPLs Provide Greater Efficiencies

In 2008, OE began an MMP Initiative to reduce the backlog of outstanding MMPs. As part of this initiative, OE developed an "expedited payment program" whereby non-controversial MMPs could be resolved without the need to issue a formal Administrative Civil Liability Complaint (ACLC)[2] and schedule an evidentiary hearing. Some of the Regional Water Boards have been quite successful at reducing staff time and administrative costs by using the EPL process.

As demonstrated in Table 2, 75.5 percent of MMPs are resolved without a hearing before the Water Boards, either through the EPL process or after issuing an ACLC which is uncontested. The 24.5 percent of matters that do proceed to hearing are the exception, not the rule, and usually involve either a non-responsive discharger (one who has not responded to a Notice of Violation (NOV), an EPL, or an ACLC), or a discharger arguing one of the technical or legal issues discussed below.

B. Transparency of Enforcement Enhanced by CIWQS Reporting

OIMA and OE have greatly enhanced the public's ability to track compliance information through the CIWQS database and the integration of MMP data into the MMP Report.

C. Development of Electronic Self-Monitoring Reports Assist in Compliance Assessment

OIMA, with assistance from OE, has developed protocols for electronic self-monitoring reports (eSMR) that assist staff with compliance assessment and with developing lists of effluent and late reporting violations that result in NOVs, EPLs, and/or ACLCs being issued in a more timely manner.

D. The MMP Statute Has Incentivized Timely Reporting Compliance

OE and the Water Boards have effectively employed the MMP statute to incentivize compliance with monitoring and reporting requirements. As shown in Table 3, late reporting violations are trending downward consistently in those programs where the failure to submit required self-monitoring reports is subject to MMPs.

IV. CURRENT PROBLEMS WITH IMPLEMENTING THE MMP STATUTE – RECOMMENDATIONS FOR GAINING EFFICIENCY

The vast majority of the 24.5 percent of MMP cases that have proceeded to a hearing over the last five years fall into three categories: 1) those where dischargers simply do not respond to an NOV, EPL, or ACLC issued by the Water Boards; 2) those where dischargers challenge the technical validity of effluent limit violations determined from self-monitoring reports (SMRs); and 3) those where dischargers are attempting to assert an equitable and/or statutory defense to MMPs that the Water Board must resolve at an evidentiary hearing. Dischargers who fall into one or more of these categories are the principle contributing cause of inefficiencies in processing MMPs, including greatly increasing the time staff must devote to responding to these issues during the EPL or ACL process, during the process leading up to a Water Board hearing, and/or at the Water Board hearing itself. These three circumstances also give rise to a considerable burden on Board Members

[2] ACLC will be used to refer to an Administrative Civil Liability *Complaint*, which initiates an MMP action, and ACLO will be used to refer to an Administrative Civil Liability *Order*, which concludes it.

themselves as they must prepare for these hearings by studying the submitted materials and then spending valuable meeting time holding a hearing.

- **Time Devoted to Resolving MMP Matters in Non-Responsive Discharger Cases**

Despite being issued an NOV, EPL, or ACLC by the Water Boards, some dischargers simply fail to respond to these regulatory measures. Therefore, the only way to resolve the outstanding violations subject to MMPs is to proceed to a Water Board hearing to have an ACLO adopted. If the discharger does not appear at the Water Board hearing, these matters usually present a small burden on the Board Members since the proposed orders are usually adopted on consent. However, even uncontested matters continue to impose a substantial burden on staff to prepare the materials for the agenda and hearing and, in approximately half of these cases, the discharger does appear unannounced and the Board Members spend considerable time holding a hearing.

- **Time Devoted to Resolving Technical Arguments Regarding Compliance Assessment**

Because MMPs must be assessed when specific violations occur, a considerable amount of staff time is devoted to responding to discharger arguments questioning staff's best professional judgment in reviewing violations, raising data quality issues, and interpreting ambiguous permit provisions.

- **Time Devoted to Resolving Legal Arguments Regarding Equitable and/or Statutory Affirmative Defenses**

Dischargers often attempt to raise affirmative defenses, but fail to realize that equitable defenses are legally cognizable under the MMP statute only in extraordinary circumstances (such as manifest injustice), if at all, and/or are unaware of their burden of proof and the necessary elements that must be demonstrated for a successful assertion of one of the statutory defenses.

- **Time Devoted to Holding Adjudicatory Hearings to Resolve Technical and/or Legal Issues**

Preparation for and holding an adjudicatory hearing before the Water Boards requires a substantial amount of time and effort by staff to meet the deadlines in the matter's corresponding hearing procedures and present the matter to the Water Board. Adjudicatory hearings also require the Board Members to expend considerable time and effort resolving contested MMP violations.

Table 2: Percentage of discretionary and MMP matters heard by the Regional or State Board

	All ACL Orders			Non-MMP ACL Orders			MMP ACL Orders		
	Issued/ Adopted	To Hearing	% To Hearing	Issued/ Adopted	To Hearing	% To Hearing	Issued/ Adopted	To Hearing	% To Hearing
2008	106	28	26.4	24	10	41.7	82	18	22.0
2009	192	65	33.9	29	24	82.8	163	41	25.2
2010	129	34	26.4	31	15	48.4	98	19	19.4
2011	160	67	41.9	56	34	60.7	104	33	31.7
2012	151	57	37.7	65	36	55.4	86	21	24.4
Total	**738**	**251**		**205**	**119**		**533**	**132**	
Average			**33.2**			**57.8**			**24.5**

**Source of data: CIWQS*

A. Streamlining Administrative Processes for MMPs Consistent with Due Process Requirements

1. Streamlining Administrative Processes in Uncontested MMP Actions

In 2008, OE began an MMP Initiative to reduce the historic backlog of outstanding MMPs. As part of this initiative, OE developed an "expedited payment program" whereby non-controversial, non-contested MMPs could be resolved without the need to issue a formal ACLC, draft and issue hearing procedures, and schedule an evidentiary hearing. The EPL process consists of a letter sent to the discharger identifying the effluent limitation or late reporting violations that are subject to an MMP. Monitoring and reporting programs for NPDES permits typically require dischargers to enumerate violations being reported in an SMR, but staff frequently detects additional violations after reviewing the data. The letter explains the mandatory nature of the civil liability and offers to resolve the matter without issuance of a formal ACLC and hearing if the discharger signs and submits a waiver of its right to a hearing and agrees to pay the MMP following a 30-day public comment period.[3] At the close of the comment period, the waiver is signed by the Executive Officer or Director and is treated as an Order. An invoice is then sent to the discharger to remit payment.

EPLs save time by avoiding the need to issue an ACLC and prepare for, schedule, and hold an adjudicatory hearing. Several Regional Water Boards use this process effectively. OE recommends that all of the Regional Water Boards implement the EPL process.[4] Doing so will minimize staff time and resources spent resolving **uncontested** MMP actions by eliminating the need to draft formal complaints and hearing notices and schedule hearings.

2. Streamlining Administrative Processes in Contested MMP Actions

Currently, when a discharger exercises its right to a hearing in a contested MMP enforcement action, an evidentiary hearing is held before the Water Board or a panel of Board Members. This is often a time consuming process for both the Water Board staff and Board Members. These adjudicatory hearings are governed by the Administrative Procedure Act, and often last several hours during a board meeting. One hundred thirty two (132) of the five hundred thirty three (533) MMP actions (24.5 percent) in the last five years were contested and were decided by the Water Boards after evidentiary hearings. *See* Table 2. While dischargers have the right to an evidentiary hearing, due process does not require the Board Members to hold the hearing. All the Water Boards, including the State Water Board, have adopted general delegations which are broad enough to allow their respective Executive Officers to hold evidentiary hearings and issue decisions on the merits.[5] In regions or specific matters where the Executive Officer is a member of the Prosecution Team, the Executive Officer could sub-delegate this function to another person, such as the Assistant Executive Officer.[6] Allowing the

[3] The EPL is the functional equivalent of a settlement agreement. Because the MMP statute falls within the Water Boards' delegated authority to implement the federal Clean Water Act, and because that Act requires settlement agreements adopted pursuant to it be noticed for a 30-day public comment period, EPLs are noticed for a 30-day public comment period before they become effective.

[4] Although all Regional Water Boards have general delegations, the executive officers should explain this process to their boards at a public meeting and obtain the boards' buy-in before implementing the EPL process. This can take the form of a specific delegation resolution, or a less formal discussion as part of the Executive Officer's Report or an enforcement report.

[5] It is advisable for each Regional Water Board to adopt a specific delegation for the purpose of designating a hearing officer to hold evidentiary hearings and issue orders in contested MMP actions.

[6] Since Porter-Cologne allows delegations to a panel of the board but not to individual board members, a Regional Water Board cannot delegate the hearing function to one or two board members.

Executive Officers or sub-delegees to hold evidentiary hearings and issue ACL orders in MMP cases would free up valuable Board Member and Board meeting time.[7] Hearings could also be scheduled at times and heard at locations more convenient for the hearing officer, the discharger and/or the public than regular Board meetings. MMP hearings scheduled between regular board meetings would allow more efficient schedule management for line and executive staff.

The hearing process could be further streamlined if the discharger agrees not to present or cross-examine witnesses at an oral hearing,[8] and elects to have the contested MMP heard vis-a-vis a "paper" hearing. Dischargers could agree to take limited staff depositions in lieu of presenting live testimony, although in some cases doing so would eliminate the increased efficiency of a paper hearing. The paper hearing itself could be held by a specific delegate of the Water Board. This type of proceeding has already been utilized for the issuance of Cleanup and Abatement Orders. Essentially, the parties submit all evidence and argument in writing without live testimony. The hearing officer then reviews the record and makes a decision. This process would eliminate the need for an oral hearing altogether. OE expects that a significant number of dischargers will elect to have a paper hearing since it saves the discharger the time and expense of making a formal appearance.

B. Minimizing Technical Arguments Regarding Compliance Assessment That Lead to Contested Proceedings

Given the mandatory nature of MMPs, the Water Boards lack the discretion not to assess MMPs once it is determined that specific types of effluent limit violations have occurred. Because of this prescriptive statutory scheme, dischargers often spend a considerable amount of time arguing whether effluent limit violations determined from SMRs are actual violations for which MMPs must be assessed. Violation disputes generally arise out of confusion regarding how violations are counted and/or when they occur, or out of data sampling and analyses problems.[9]

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[7] The Los Angeles Regional Board has delegated authority to its Executive Officer to act as a hearing officer and render decisions in MMP cases where less than $30,000 is at issue.

[8] All adjudicative proceedings before the Water Boards are governed by Chapter 4.5 of the Administrative Procedure Act (APA) (commencing with section 11410.10 of the Government Code). State Water Board regulations also incorporate sections 801 through 805 of the Evidence Code and section 11513 of the Government Code. (Cal. Code Regs., tit. 23, § 648(b).) Section 11513 provides that each party shall have the right "to call and examine witnesses, to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in direct examination; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence against him or her. If respondent does not testify in his or her own behalf he or she may be called and examined as if under cross-examination." State Water Board regulations confer power on the hearing officer to waive hearing requirements unless they are mandated by state or federal law. (Cal. Code Regs., tit. 23, § 648(d).) . Because section 11513 is only applicable as a function of the regulations, the hearing officer can waive cross-examination except to the extent due process or other constitutional provisions require it. (See, *Mohilef v. Janovici* (1996) 51 Cal.App.4th 267 [right to confrontation and cross-examination in administrative hearings depends upon nature of interest involved].) Given the nature of interests involved in a penalty hearing, the hearing officer should not deny these procedural safeguards in cases involving a factual dispute, unless the discharger stipulates to a paper hearing.

[9] Ambiguous effluent limitations, and ambiguous permit terms can also be the source of technical disputes over whether there has been a violation and/or whether the violation is subject to an MMP. Resolving these issues is a part of an ongoing effort being undertaken by the Division of Water Quality (DWQ) in cooperation with the Regional Water Boards. OE is committed to working with DWQ to share its experiences and understandings to help minimize issues, including those relating to MMPs, which arise from interpretive problems with the substantive terms of permits. This topic is beyond the scope of this memorandum.

1. Recommendations for Minimizing Compliance Determination Disputes

Dischargers and, occasionally, staff have expressed confusion over how violations are counted and how staff determines whether a violation occurred. For example, dischargers frequently argue that chronic MMPs only accrue when the same limitation is exceeded four or more times in a 180-day period, but the plain language of section 13385(i) indicates that any combination of effluent limitation violations occurring within a 180-day period triggers MMPs for chronic violations. Also, dischargers frequently err when calculating the date of violation for effluent limitations with average or median periods. Generally, the date of violation is the last day of the limitation averaging period. Accordingly, violations of weekly average limits occur on Saturday, and violations of monthly average limits occur on the last day of the month, regardless of when and how many samples were collected during the week or month. Finally, the Water Boards' current convention regarding how it sequences serious and non-serious violations that occur on the same date is to count the non-serious violations first, then count the serious violations. The convention provides a consistent approach to ordering same-day violations (e.g., multiple monthly average violations in the same month) and avoids inconsistent assessments for similar situations.

Some of these issues are addressed in the 2001 *SB 709 and SB 2165 Questions and Answers* (2001 MMP Q & A) document prepared by the Office of the Chief Counsel. However, others are not. The 2001 MMP Q & A should be updated to address some of the most common discharger questions and misconceptions. An updated Q & A should be prepared for staff, and an MMP Frequently Asked Questions (FAQ) or Fact Sheet document should be prepared by OE and Office of Chief Counsel, sent to the discharger as part of the EPL package, and links to the documents should be posted in appropriate locations on the State and Regional Water Board websites.

2. Recommendations for Minimizing Data Quality Related Delays

Questions regarding the quality of data used to assess compliance with effluent limitations are often raised by dischargers after issuance of an NOV, ACLC, or EPL. At other times, staff will note discrepancies in laboratory reports as part of the file review. In either case, the discharger has the burden of proving sample results are not representative of actual conditions. Nevertheless, Regional Water Board line staff frequently experience uncertainty regarding how to proceed or what to recommend with respect to use of the analytical results in question because they do not have sufficient expertise with standard United States Environmental Protection Agency (U.S. EPA) testing protocols and/or laboratory procedures. Regional Water Board line staff's inability to resolve these issues quickly, leads to inefficiencies and delays in finalizing an MMP action. Examples of data quality issues include, but are not limited to, allegations of laboratory error, claims of matrix interference or analyte-specific interference, failure of laboratory to identify and/or address the interferences, contentions that there was a sampling error, detection of analyzed constituent in blank, and split samples with different results from different accredited laboratories. Compliance determination staff may be uncertain what resources are available in other areas of the Water Board system to help resolve these issues. If the Environmental Laboratory Accreditation Program (ELAP) is transferred to the State Water Board from the Department of Public Health, the Water Boards should gain significant in-house expertise and be better enabled to expeditiously and accurately address these matters, which expertise could also be leveraged to train current Regional Water Board line staff. If this transfer does not occur, Regional Water Board staff with compliance determination functions should undertake significant training in standard U.S. EPA testing methods and laboratory functions.

Updating the MMP Q & A and distributing it more effectively to the regulated public should help minimize the amount of staff time spent engaging with dischargers on compliance determination issues, and help reduce the number of MMP actions that proceed to a contested hearing, by clarifying expectations. Increasing the level of staff expertise on U.S. EPA standard testing protocols and lab procedures through training should help reduce the amount of staff time spent on these issues and increase the efficiency with which MMP actions are processed.

C. Minimizing Legal Argument Regarding Affirmative Defenses and/or Equitable Principles That Lead to Contested Proceedings

Both regulatory and legal staff devote a substantial amount of time responding to dischargers' attempts to assert one of the statutorily enumerated affirmative defenses in section 13385, and/or explaining why other equitable defenses not specifically set forth in the statute, such as laches or inability to pay are inapplicable to MMP violations.

Many discharges fail to recognize or acknowledge that they have the burden of proof on every element necessary to establish an affirmative defense that is set forth in the statute. Still more believe that they can assert affirmative defenses not set forth in the statute by the Legislature.

The State Water Board's recent precedential decisions that equitable defenses such as laches may not be asserted in an MMP action[10] should greatly reduce the number of dischargers asserting these arguments. A large percentage of the contested MMP actions in the last five years included a laches argument.

The MMP Q & A should include a notation on the State Water Board's recent decisions on laches, with a link to the decisions, as well as clarification on the burden of proof and elements necessary to assert one of the statutorily available defenses. OE and the Office of Chief Counsel should prepare short statements to include in the MMP Q & A describing how state and federal case law interpret the necessary elements of the act of God defense, the act of war defense, the intentional act of a third party defense, and the single operational upset defense. These defenses all involve legal terms of art, giving rise to confusion and consternation when interpreted by a layperson or inexperienced attorney. OE and Office of Chief Counsel should strive to animate the defenses with guiding principles from the case law in a way that makes it easy for a layperson and/or the inexperienced legal practitioner to understand the guidance, and give examples of fact patterns where the defense has been upheld.

Finally, dischargers frequently argue they have an inability to pay the MMP and request that a lower amount be imposed. While reducing the amount or changing the due date of an MMP penalty is not permitted by the statute except through a supplementation environmental project (SEP) or compliance project, the Water Boards could allow the use of payment plans to accommodate those dischargers that cannot make a lump sum MMP payment within 30 days of the Water Board's order.[11]

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[10] The precedential orders acknowledge that "manifest injustice" may form the basis of a laches defense, but courts have rarely if ever found facts that actually satisfy the 'manifest injustice" standard.

[11] Section 13323(d) provides that payment of penalties is due "not later than 30 days from the date" the ACLO is issued. Section 13385(m) provides that any person who fails to pay a penalty on time is also subject to, among other things, "an amount equal to 20 percent of the aggregate amount of the person's penalty and nonpayment penalties that are unpaid as of the beginning of the quarter." The Water Boards have avoided potential collection actions and additional late-payment penalties in cases where the Executive Officer enters into an agreement for a payment plan outside the confines of the ACLO. These "side agreements," which are not part of the ACL package presented to the board for approval, are used with some frequency. However, it is not recommended that their availability be widely advertised given the statutory provisions cited above.

V. REPORTING VIOLATIONS: PENALTY ACCRUAL TO VERY HIGH LEVELS – POTENTIAL EXPANSION OF MMP REPORTING VIOLATIONS TO OTHER PROGRAMS

A. Addressing the Accrual of Very High MMPs for Late Reporting

Some Regional Water Boards have been reluctant to impose significant MMPs for accrued reporting violations. Many of these cases arose in the context of OE's 2008 MMP initiative, and involved situations where the dischargers simply failed to submit required reports for a number of years, or situations where the Regional Water Boards had failed to timely initiate MMP actions for late reporting. Accordingly, to a great extent, the problem of accrual of extremely high MMPs for late reporting violations has been ameliorated by the Water Quality Enforcement Policy's goal that all MMPs be issued within 18 months of the date a violation accrues, and by the success of the Initiative in bringing current most of the backlogged MMPs. The State Water Board Enforcement Policy's 2010 clarification of the definition of Discharge Monitoring Report, and the adoption of SB 1284, which provided exceptions to MMPs for late monitoring reports under certain circumstances are also likely contributors to reducing the problem. Most Regional Water Boards either achieve or come close to achieving the 18-month goal.

During OE's outreach to the Regional Water Board enforcement coordinators and Assistant Executive Officers, it was suggested by some that a "cap" be placed on MMPs for late reporting. Placing a cap on MMPs for late reporting would require a statutory amendment to section 13385.1. Moreover, a cap is not likely to be an effective way to address skyrocketing penalties for late reporting. Most "good faith" dischargers are now aware that MMPs apply to late reports and, as illustrated by Table 3, late reporting violations are trending downward dramatically.[12] Very high MMPs for reporting violations can be avoided in some cases by educating dischargers about the potential penalties and avoiding MMP backlogs. Some of the historic problems with exorbitantly high MMPs for reporting violations were caused by the Water Boards' failure to widely advertise the effects of the Legislation when it was enacted, and the failure to timely act on violations. With respect to "bad faith" or recalcitrant dischargers, a cap would merely encourage their further recalcitrance and, in fact, potentially incentivize late and non-reporting as a mere cost of doing business.

The problems Regional Water Boards have experienced with exorbitantly high MMP reporting violations may be largely ameliorated and a remnant of the past. For all of these reasons, OE does not recommend seeking a legislative amendment establishing a cap on MMPs for late reporting.

B. Expanding MMPs for Late Reporting to Other Core Regulatory Programs and Other Violations Within the NPDES Program

The data shows that MMPs for late reporting have been steadily decreasing since their peak in 2007. The decreasing trend in late report MMPs indicates that facilities are increasing compliance with reporting deadlines. Expanding MMPs for late reporting in other core regulatory programs, such as Non-15, Title 27 and 401 Water Quality Certification, could lead to the same type of positive trends towards timely reporting in those programs. The California Department of Transportation (Caltrans) has been a particularly recalcitrant reporter under the 401 Water Quality Certification program. Expanding MMPs to cover late reporting for these programs would require a statutory amendment.

[12] Preliminary results from 2012 show a mere 55 late reporting violations subject to MMPs, but the data has not been verified and was not included in Table 2 for that reason.

TABLE 3: Trends in Late Reporting MMPs

Year	2004	2005	2006	2007	2008	2009	2010	2011
Number of MMPs for late reports	123	227	430	552	329	129	151	110

From Figure 1: NPDES Wastewater MMP violations since 2000 by Type. 2012 13385(o) Enforcement Report.

If late reporting MMPs were to be extended to all WDRs, the problems of large numbers of late reporting ACLOs and many high-dollar late reporting ACLOs could largely be avoided through improved up-front communication with affected dischargers and more efficient and consistent delinquent report notifications using existing functionality in CIWQS. However, expanding MMPs for late reporting for additional program areas may divert limited staff resources from higher enforcement priorities. Moreover, despite quality data relating to Caltrans, it is advisable to verify late reporting is a significant issue in these other program areas on a broader level, and that less controversial regulatory measure such as consistent and timely issuance of NOVs would not be equally effective, before proposing a statutory amendment that could be very controversial.

Responsible Agency	Collection System	Total Volume	Total Recovered	Total Reaching Surface Waters	Percent Recovered	Percent Reaching Surface Waters	Miles of Pressure Sewer	Miles of Gravity Sewer	Population in Service Area
		(Gallons)			(%)				
CARLSBAD MWD	Carlsbad MWD CS	1	0	0	0%	0%	5	282	69,420
Eastern Municipal Water District	Temecula Valley RCS	3,600	3,500	0	97%	0%	27	472	212,425
La Mesa City	City Of La Mesa CS	25	25	0	100%	0%	0	155	55,724
Laguna Beach City	City Of Laguna Beach CS	49	49	0	100%	0%	5	95	18,000
Laguna Beach City	City Of Laguna Beach CS	50	50	0	100%	0%			
Marine Corps Base Camp Pendleton	Usmc Base, Camp Pendleton CS	55	55	0	100%	0%	63	108	46,900
Marine Corps Base Camp Pendleton	Usmc Base, Camp Pendleton CS	500	300	0	60%	0%			
Padre Dam Municipal Water District	Padre Dam CS	3	3	0	100%	0%	5	161	67,398
Rancho Santa Fe Community Services District	Rancho Santa Fe San Dist Plant CS	900	900	0	100%	0%	6	60	3,550
San Clemente City	City Of San Clemente CS	5	0	0	0%	0%	4	180	48,000
San Clemente City	City Of San Clemente CS	30	30	0	100%	0%			
San Clemente City	City Of San Clemente CS	290	290	0	100%	0%			
San Diego City	San Diego City CS (Wastewater Collection System)	120	0	0	0%	0%	145	3,002	2,186,810
San Diego City	San Diego City CS (Wastewater Collection System)	1,500	0	0	0%	0%			
San Diego City	San Diego City CS (Wastewater Collection System)	770	770	0	100%	0%			
San Diego City	San Diego City CS (Wastewater Collection System)	1,600	1,600	0	100%	0%			
San Diego City	San Diego City CS (Wastewater Collection System)	300	0	0	0%	0%			
San Diego City	San Diego City CS (Wastewater Collection System)	300	300	0	100%	0%			
San Diego City	San Diego City CS (Wastewater Collection System)	3,710	0	0	0%	0%			
San Diego City	San Diego City CS (Wastewater Collection System)	515	150	0	29%	0%			
San Diego City	San Diego City CS (Wastewater Collection System)	5,650	650	0	12%	0%			
San Diego County Public Works	County Of San Diego CS	750	712	0	95%	0%	10	407	151,000
San Diego County Public Works	County Of San Diego CS	400	300	0	75%	0%			
South Coast Water District	South Coast Water District CS	300	300	0	100%	0%	3	138	42,000
South Coast Water District	South Coast Water District CS	520	520	0	100%	0%			
Vallecitos Water District	Meadowlark CS	320	0	0	0%	0%	7.6	247.7	87,156
	Totals	22,263	10,504	0					

October 2013 - Summary of Public Sanitary Sewer Overflows in Region 9

Responsible Agency	Collection System	Total Volume	Total Recovered	Total Reaching Surface Waters	Percent Recovered	Percent Reaching Surface Waters	Miles of Pressure Sewer	Miles of Gravity Sewer	Population in Service Area
		(Gallons)			(%)				
Escondido City	Harrf Disch To San Elijo Oo CS	1	0	0	0%	0%	10.7	370	142,000
Escondido City	Harrf Disch To San Elijo Oo CS	3,600	3,500	0	97%	0%			
La Mesa City	City Of La Mesa CS	25	25	0	100%	0%	0	155	55,724
La Mesa City	City Of La Mesa CS	49	49	0	100%	0%			
La Mesa City	City Of La Mesa CS	50	50	0	100%	0%			
La Mesa City	City Of La Mesa CS	55	55	0	100%	0%			
La Mesa City	City Of La Mesa CS	500	300	0	60%	0%			
Lemon Grove City	City Of Lemon Grove CS	3	3	0	100%	0%	0.1	62.4	25,800
San Clemente City	City Of San Clemente CS	900	900	0	100%	0%	4	180	48,000
San Diego City	San Diego City CS (Wastewater Collection System)	5	0	0	0%	0%	145	3,002	2,186,810
San Diego City	San Diego City CS (Wastewater Collection System)	30	30	0	100%	0%			
San Diego City	San Diego City CS (Wastewater Collection System)	290	290	0	100%	0%			
San Diego City	San Diego City CS (Wastewater Collection System)	120	0	0	0%	0%			
San Diego County Public Works	County Of San Diego CS	1,500	0	0	0%	0%	10	407	151,000
San Diego County Public Works	County Of San Diego CS	770	770	0	100%	0%			
San Diego County Public Works	County Of San Diego CS	1,600	1,600	0	100%	0%			
Trabuco Canyon WD	Trabuco Canyon Water District CS	300	0	0	0%	0%	3	44	3,200
UC San Diego	University Of California, San Diego CS	300	300	0	100%	0%	1	25	55,000
UC San Diego	University Of California, San Diego CS	3,710	0	0	0%	0%			
UC San Diego	University Of California, San Diego CS	515	150	0	29%	0%			
US Marine Corps Recruit Depot	MCRD CS	5,650	650	0	12%	0%	0	4	8,800
	Totals	19,973	8,672	0					

November 2013 - Summary of Public Sanitary Sewer Overflows in Region 9

Responsible Agency	Collection System	Total Volume	Total Recovered	Total Reaching Surface Waters	Percent Recovered	Percent Reaching Surface Waters	Miles of Pressure Sewer	Miles of Gravity Sewer	Population in Service Area
		(Gallons)			(%)				
Chula Vista City	City Of Chula Vista CS	1,200	1,200	0	100%	0%	2.6	501	249,382
Chula Vista City	City Of Chula Vista CS	150	150	0	100%	0%			
Chula Vista City	City Of Chula Vista CS	1,075	600	1,075	56%	100%			
Eastern Municipal Water District	Temecula Valley RCS	475	475	0	100%	0%	27	472	212,425
Fallbrook Public Utility Dist	Fallbrook Plant 1, Oceanside of CS	100	75	0	75%	0%	4.6	76.8	23,000
La Mesa City	City Of La Mesa CS	1	1	0	100%	0%	0	155	55,724
La Mesa City	City Of La Mesa CS	375	375	0	100%	0%			
La Mesa City	City Of La Mesa CS	25	25	0	100%	0%			
La Mesa City	City Of La Mesa CS	840	840	0	100%	0%			
La Mesa City	City Of La Mesa CS	25	25	0	100%	0%			
La Mesa City	City Of La Mesa CS	16	16	0	100%	0%			
Laguna Beach City	City Of Laguna Beach CS	200	200	0	100%	0%	4.5	95	18,000
Marine Corps Base Camp Pendleton	Usmc Base, Camp Pendleton CS	90	0	0	0%	0%	63.4	108.3	46,900
Oceanside City	La Salina WWTP, Oceanside Otfl CS	11,400	0	8,400	0%	74%	35.6	439.7	169,350
Padre Dam Municipal Water District	Padre Dam CS	3	3	0	100%	0%	4.6	161	67,398
San Clemente City	City Of San Clemente CS	8	8	0	100%	0%	4	180	48,000
San Diego City	San Diego City CS (Wastewater Collection System)	57	57	0	100%	0%	145	3002	2,186,810
San Diego City	San Diego City CS (Wastewater Collection System)	2,430	2,130	0	88%	0%			
San Diego County Public Works	County Of San Diego CS	60	60	0	100%	0%			
UC San Diego	University Of California, San Diego CS	3	3	0	100%	0%	0.5	25	55,000
UC San Diego	University Of California, San Diego CS	50	50	0	100%	0%			
UC San Diego	University Of California, San Diego CS	50	50	0	100%	0%			
	Totals	18,633	6,343	9,475					

December 2013 - Summary of Public Sanitary Sewer Overflows in Region 9

Responsible Agency	Collection System	Total Volume	Total Recovered	Total Reaching Surface Waters	Percent Recovered	Percent Reaching Surface Waters	Miles of Pressure Sewer	Miles of Gravity Sewer	Population in Service Area
		(Gallons)			(%)				
CORONADO CITY	City Of Coronado CS	300	300	0	100%	0%	6.6	39.3	24,697
CORONADO CITY	City Of Coronado CS	30	30	0	100%	0%			
El Cajon City	City Of El Cajon CS	100	5	95	5%	95%	0	192	100,116
La Mesa City	City Of La Mesa CS	36	36	0	100%	0%	0	155	55,724
La Mesa City	City Of La Mesa CS	60	60	0	100%	0%			
La Mesa City	City Of La Mesa CS	100	100	0	100%	0%			
La Mesa City	City Of La Mesa CS	24	24	0	100%	0%			
La Mesa City	City Of La Mesa CS	15	15	0	100%	0%			
La Mesa City	City Of La Mesa CS	10	10	0	100%	0%			
Laguna Beach City	City Of Laguna Beach CS	500	500	0	100%	0%	4.5	95	18,000
Laguna Beach City	City Of Laguna Beach CS	250	15	220	6%	88%			
Marine Corps Base Camp Pendleton	Usmc Base, Camp Pendleton CS	450	450	0	100%	0%	63.4	108.3	46,900
Moulton Niguel Water District	Moulton Niguel Water District CS	810	5	805	1%	99%	20	510	165,000
Oceanside City	La Salina WWTP, Oceanside Otfl CS	625	0	625	0%	100%	35.6	439.7	169,350
Oceanside City	La Salina WWTP, Oceanside Otfl CS	150	60	150	40%	100%			
San Clemente City	City Of San Clemente CS	10	10	0	100%	0%	4	180	48,000
San Diego City	San Diego City CS (Wastewater Collection System)	21,150	0	21,150	0%	100%	145	3002	2,186,810
San Diego City	San Diego City CS (Wastewater Collection System)	680	0	0	0%	0%			
San Diego City	San Diego City CS (Wastewater Collection System)	3,500	3,500	1,500	100%	43%			
San Diego City	San Diego City CS (Wastewater Collection System)	30,660	10,000	20,660	33%	67%			
South Coast Water District	South Coast Water District CS	116	25	116	22%	100%	3	138	42,000
UC San Diego	University Of California, San Diego CS	2,000	0	2,000	0%	100%	0.5	25	55,000
	Totals	61,576	15,145	47,321					

September - December 2013 - Summary of Private Lateral Sewage Discharges in Region 9

Responsible Agency	Collection System	Total Volume	Total Recovered	Total Reaching Surface Waters	Percent Recovered	Percent Reaching Surface Waters	Population in Service Area	Lateral Connections
		(Gallons)			(%)			
CARLSBAD MWD	Carlsbad MWD CS	150	150	0	100%	0%	69,420	47,800
CARLSBAD MWD	Carlsbad MWD CS	20	20	0	100%	0%		
CARLSBAD MWD	Carlsbad MWD CS	10	10	0	100%	0%		
CARLSBAD MWD	Carlsbad MWD CS	3	3	0	100%	0%		
CORONADO CITY	City Of Coronado CS	120	120	0	100%	0%	24,697	10,000
CORONADO CITY	City Of Coronado CS	10	10	0	100%	0%		
CORONADO CITY	City Of Coronado CS	20	20	0	100%	0%		
CORONADO CITY	City Of Coronado CS	100	100	0	100%	0%		
CORONADO CITY	City Of Coronado CS	10	10	0	100%	0%		
Chula Vista City	City Of Chula Vista CS	40	40	0	100%	0%	249,382	47,800
Chula Vista City	City Of Chula Vista CS	80	80	0	100%	0%		
Chula Vista City	City Of Chula Vista CS	150	150	0	100%	0%		
Chula Vista City	City Of Chula Vista CS	100	100	0	100%	0%		
Chula Vista City	City Of Chula Vista CS	15	15	0	100%	0%		
El Cajon City	City Of El Cajon CS	15	15	0	100%	0%	100,116	16,675
El Cajon City	City Of El Cajon CS	50	10	40	20%	80%		
El Toro Water District	El Toro Water District R9 CS	15	8	7	53%	47%	50,200	9,500
Encinitas City	City Of Encinitas CS	10	10	0	100%	0%	36,100	10,183
Encinitas City	City Of Encinitas CS	200	200	0	100%	0%		
Encinitas City	City Of Encinitas CS	20	15	0	75%	0%		
Escondido City	Harrf Disch To San Elijo Oo CS	40	0	0	0%	0%	142,000	53,848
La Mesa City	City Of La Mesa CS	12	12	0	100%	0%	55,724	13,000
La Mesa City	City Of La Mesa CS	45	0	0	0%	0%		
La Mesa City	City Of La Mesa CS	6	0	0	0%	0%		
La Mesa City	City Of La Mesa CS	2	0	0	0%	0%		
La Mesa City	City Of La Mesa CS	10	10	0	100%	0%		
Leucadia Wastewater District	Leucadia Wastewater District CS	15	10	5	67%	33%	60,000	20,365
Leucadia Wastewater District	Leucadia Wastewater District CS	20	0	0	0%	0%		
National City	City Of National City CS	50	50	0	100%	0%	57,800	
National City	City Of National City CS	10	10	0	100%	0%		
Oceanside City	La Salina WWTP, Oceanside Otfl CS	220	150	70	68%	32%	169,350	41,750
Padre Dam Municipal Water District	Padre Dam CS	1	1	0	100%	0%	67,398	15,066
Poway City	City Of Poway CS	4	4	0	100%	0%	42,862	12,193
Poway City	City Of Poway CS	1	0	0	0%	0%		

September - December 2013 - Summary of Private Lateral Sewage Discharges in Region 9

Responsible Agency	Collection System	Total Volume	Total Recovered	Total Reaching Surface Waters	Percent Recovered	Percent Reaching Surface Waters	Population in Service Area	Lateral Connections
		(Gallons)			(%)			
Poway City	City Of Poway CS	20	6	0	30%	0%		
Poway City	City Of Poway CS	269	269	0	100%	0%		
Poway City	City Of Poway CS	10	0	0	0%	0%		
Poway City	City Of Poway CS	12	4	0	33%	0%		
Poway City	City Of Poway CS	3	3	0	100%	0%		
Poway City	City Of Poway CS	7	0	0	0%	0%		
Poway City	City Of Poway CS	10	10	0	100%	0%		
San Diego City	San Diego City CS (Wastewater Collection System)	240	240	0	100%	0%	2,186,810	267,237
San Diego City	San Diego City CS (Wastewater Collection System)	202	173	29	86%	14%		
San Diego City	San Diego City CS (Wastewater Collection System)	153	153	0	100%	0%		
San Diego City	San Diego City CS (Wastewater Collection System)	120	120	0	100%	0%		
San Diego City	San Diego City CS (Wastewater Collection System)	137	137	0	100%	0%		
San Diego City	San Diego City CS (Wastewater Collection System)	42	37	5	88%	12%		
San Diego City	San Diego City CS (Wastewater Collection System)	59	59	0	100%	0%		
San Diego City	San Diego City CS (Wastewater Collection System)	230	230	0	100%	0%		
South Coast Water District	South Coast Water District CS	300	300	0	100%	0%	42,000	14,762
Vista City	City Of Vista CS	25	20	5	80%	20%	90,000	16,292
	Totals	3,413	3,094	161				

QUARTERLY DREDGE AND FILL PROJECT ACTION REPORT
SEPTEMBER THROUGH DECEMBER 2013

Reporting Period	Certification/ WDR Applications Received	Certifications/ WDR Issued[1]	Enrollment In State Certifications[2]	Certification/ WDR Amendments[3]	Certification/ WDR Withdrawals[4]	Certification/ WDR Denials[5]	Total Pending Applications
October	15	4	4	2	1	0	
November	9	3	1	1	0	0	
December	10	2	3	2	0	0	
Quarterly Total	**34**	**9**	**8**	**5**	**1**	**0**	
YTD TOTAL	**95**	**23**	**13**	**13**	**3**	**2**	**167**

Reporting Period	Permanent Impacts[6] (Acres)	Temporary Impacts[6] (Acres)	Establishment Mitigation[7] (Acres)	Restoration Mitigation[8] (Acres)	Enhancement Mitigation[9] (Acres)	Preservation Mitigation[10] (Acres)
October	1.041	2.993	2.510	2.061	3.330	0
November	1.611	0.440	0.130	5.930	10.060	0
December	0.0004	1.202	0.0004	4.880	0	0
Quarterly Total	**2.652**	**4.635**	**2.640**	**12.871**	**13.39**	**0**
YTD TOTAL	**11.985**	**31.191**	**80.451**	**47.834**	**16.172**	**39.430**

1. Certifications can be low impact, conditional, or programmatic. Low impact certifications are for projects that have minimal potential to adversely impact water quality. Conditional certifications are for projects that have the potential to adversely impact water quality, but by complying with technical conditions, will have minimal impacts. Programmatic certifications are conditional certifications issued to projects with like, recurring, or long-term impacts, thereby requiring continuous oversight.
2. In cases where the State Water Resources Control Board has issued a programmatic certification (State Certification), the Regional Water Boards are responsible for reviewing projects in their areas to confirm whether they qualify for enrollment in the programmatic certifications.
3. Amendments are revisions to certifications that have been issued.
4. Withdrawn refers to projects that the applicant or San Diego Water Board have withdrawn due to procedural issues not corrected within one year.
5. Denials are issued when a project will adversely impact water quality and suitable mitigation measures are not proposed or possible. Denials may also be issued when avoidance of project impacts to wetlands or waters is not adequate.
6. Permanent impacts (P) result in a permanent fill or loss of wetland function and value. Temporary impacts (T) are expected to return to their original condition within one year.
7. Establishment is defined as the creation of vegetated or unvegetated waters of the United States and/or State where the resource has never previously existed (e.g. conversion of nonnative grassland to a freshwater marsh).
8. Restoration is divided into two activities, re-establishment and rehabilitation. Re-establishment is defined as the return of natural/historic functions to a site where vegetated or unvegetated waters of the United States and/or State previously existed (e.g., removal of fill material to restore drainage). Rehabilitation is defined as the improvement of the general suite of functions of degraded vegetated or unvegetated waters of the United States and/or State (e.g., removal of a heavy infestation or monoculture of exotic plant species from jurisdictional areas and replacing with native species).
9. Enhancement is defined as the improvement to one or two functions of existing vegetated or unvegetated waters of the United States and/or State (e.g., removal of small patches of exotic plant species from an area containing predominantly natural plant species).
10. Preservation is defined as the acquisition and legal protection from future impacts in perpetuity of existing vegetated or unvegetated waters of the United States and/or State (e.g., conservation easement).

Quarterly Dredge and Fill Project Action Report **October - December 2013**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres)[1]	MITIGATION (Acres)[1]	CERTIFICATION/ WDR ACTION[2]
10/1/2013	Neal Driscroll, Ph.D.	Broadband Ocean Bottom Seismometer Project	The project is the installation of Ocean Bottom Seismometer units to upgrade the seismograph network and resulting earthquake catalog. This will be used to: 1) locate and asses the physical properties of the faults offshore of southern California; 2) collect data on the physical properties of the subsurface between the source fault and San Onofre Nuclear Generating Station through which recorded earthquake seismic waves propagate; and 3) monitor actual earthquake ground motion offshore of Southern California.	Pacific Ocean	N/A	N/A	R9-2013-0110 Withdrawn
10/1/2013	Santa Margarita Water District	Gobernadora Multipurpose Basin	The project involves the construction of the Gobernadora Multipurpose Basin Facility. This basin is designed to capture and naturally treat urban runoff and storm flows to reduce downstream erosion and sedimentation, address excessive surface and groundwater, and improve water quality in the Gobernadora Creek that flows downstream to Gobernadora Ecological Restoration Area. Project design elements include two detention basins, one vegetated water quality basin with five treatment cells, groundwater production wells, a pump collection system, and a flood control weir.	Cañada Gobernadora Creek, Wagon Wheel Creek, and their unnamed tributaries	**(P):** 0.68 acres of Wetland **(T):** 0.87 acres of Wetland	**Establishment:** 1.36 acres of Wetland **Enhancement:** 2.18 acres of Wetland	R9-2013-0075 Order for Technically-conditioned Certification Enrollment in SWRCB GWDR Order No. 2003-17 DWQ

Quarterly Dredge and Fill Project Action Report **October - December 2013**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres)[1]	MITIGATION (Acres)[1]	CERTIFICATION/ WDR ACTION[2]
10/3/2013	City of Murrieta	Guava Street Bridge Project	The project is the removal of an existing, structurally deficient bridge crossing for Murrieta Creek at Washington Avenue, adding a cul-de-sac to Washington Avenue on the south side of Murrieta Creek, connecting Washington Avenue with Brown Street on the north side of Murrieta Creek, and constructing a new Murrieta Creek crossing by extending Guava Street between Washington Avenue and Adams Avenue.	Murrieta Creek	**(P):** 0.001 acres of Streambed **(P):** 0.001 acres of Wetland **(T):** 0.09 acres of Wetland **(T):** 0.76 acres of Streambed	**Establishment:** 0.03 acres of Wetland at Mapleton Mitigation Site **Restoration:** 0.001 acres of Streambed **Restoration:** 0.76 acres of streambed. **Restoration:** 0.09 acres of wetland.	R9-2012-0014 Order for Technically-conditioned Certification Enrollment in SWRCB GWDR Order No. 2003-17 DWQ
10/4/2013	Global Investments	French Valley Creek Slope Protection at Skyview Road and Water Supply Crossing Project	The project involves the installation of slope protection along both sides of French Valley Creek (which is required as a condition of the approval of the Bella Sol and Capistrano developments) and the installation of an emergency waterline in French Valley Creek as required by the Eastern Municipal Water District.	French Valley Creek	**(T):** 0.831 acres of streambed	**Restoration:** 0.831 acres of streambed	R9-2012-0084 Order for Technically-conditioned Certification Enrollment in SWRCB GWDR Order No. 2003-17 DWQ
10/10/2013	SGM Investments	Polo Club at Vista Valley, Tract 4736	The project involves subdividing 442 acres into 172 single family residential lots using a Planned Residential Development (PRD). The purpose of the PRD is to allow for the protection of large areas of biological open space which will be encompassed in portions of individual residential lots and two separate open lots.	Gopher Canyon Creek, South fork of Gopher Canyon Creek, and the San Luis Rey River.	**(P):** 0.1 acres of streambed **(P)**: 0.17 acres of wetland **(T):** 0.07 acres of Streambed and Riparian **(T):** 0.24 acres of Wetland	**Establishment:** 0.30 acres of streambed **Establishment:** 0.75 acres of wetland **Establishment:** 0.07 acres of streambed and Riparian **Restoration:** 0.07	R9-2010-0032 Order for Technically-conditioned Certification Enrollment in SWRCB GWDR Order No. 2003-17 DWQ

Quarterly Dredge and Fill Project Action Report **October - December 2013**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres)[1]	MITIGATION (Acres)[1]	CERTIFICATION/ WDR ACTION[2]
						acres of streambed and Riparian **Restoration:** 0.24 acres of wetland	
10/11/2013	Otay Water District	Jamacha Road Pipeline Emergency Repair	Otay Water District identified a subterranean mainline pipe break along the Jamacha Road Pipeline. The water line was shut off and without this main line service would have been interrupted when back-feeding was no longer available. The purpose of this project was to clear and excavate the area and repair the pipeline.	An unnamed tributary to Sweetwater River	**(T):** 0.03 acres of riparian **(T):** 0.01 acres of streambed	**Restoration:** 0.03 acres of riparian **Restoration:** 0.01 acres of streambed **Enhancement:** 1.5 acres of streambed and wetlands	R9-2013-0162 Enrollment in State Water Resources Control Board General Water Quality Certification of Repair and Protection Activities in Emergency Situations
10/22/2013	San Diego Association of Governments	San Diego River Double Track Project Geotechnical Borings	The project is a geotechnical investigation (borings) in support of the San Diego River Double Track Project. The applicant is requesting coverage under U.S. Army Corps of Engineers (USACE) Nationwide Permit No. 6 - survey activities. The project would not result in any permanent loss of wetlands or waters of the United States.	San Diego River	**(P):** 0.063 acres of wetland	No Mitigation Proposed	R9-2013-0159 Enrollment in State Water Resources Control Board General Water Quality Certification of U.S. Army Corps of Engineers 2012 Nationwide Permits
10/21/2013	Coronado Cays Homeowners Association	Coronado Cays Homeowners Association Boat Dock Removal and Replacement	The project was originally certified on 09/07/2008 and was amended for the first time on 10/21/2013. The project involves the removal and replacement of floating docks and gangways within the waterways of this community. Amendment 1 extends the term for an additional 5 years.	San Diego Bay	No Changes to Impacts	No Changes to Mitigation	Amendment 1 to Certification No. 08C-055

Quarterly Dredge and Fill Project Action Report **October - December 2013**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres)[1]	MITIGATION (Acres)[1]	CERTIFICATION/ WDR ACTION[2]
10/24/2013	City of Solana Beach	City of Solana Beach Opportunistic Beach Restoration Program	The project was originally certified on 03/04/2009 and was amended for the second time on 10/24/2013. The project involves the placement of beach quality sand obtained from upland or dredging projects on Fletcher Cove Beach. Amendment 2 extends the term for an additional five years.	Pacific Ocean	No Changes to Impacts	No Changes to Mitigation	Amendment 2 to Certification No. 08C-023
10/28/2013	City of San Diego	Emergency Sewer Repairs in Tecolote Canyon	The project involved the emergency repair of a 15-inch diameter vitreous clay sewer main line that had been exposed and cracked due to severe erosion.	Unnamed Tributary to Tecolote Creek	**(P):** 0.008 acres of streambed **(T):**0.002 acres of streambed	No Mitigation Proposed	R9-2013-0170 Enrollment in State Water Resources Control Board General Water Quality Certification of Repair and Protection Activities in Emergency Situations
11/15/2013	County of San Diego	Former Fallbrook 1 C Burn Dump Remediation	The project is the clean closure of the Former Fallbrook 1C Burn Dump located in Fallbrook, California. The objective of the project is to remove and dispose of all burn ash material located on approximately 1.69 acres of the site. The site will then be re-graded and re-vegetated to reflect the current grade, drainages and habitat present.	Unnamed tributaries to the Santa Margarita River	**(P):** 0.01 acres of streambed **(P):** 0.25 acres of riparian	**Restoration:** 0.03 acres of streambed **Restoration:** 0.37 acres of riparian	R9-2013-0131 Order for Technically-conditioned Certification Enrollment in SWRCB GWDR Order No. 2003-17 DWQ
11/22/2013	San Diego Association of Governments (SANDAG)	Mid-Coast Corridor Transit Geotechnical Project	The project is a geotechnical field investigation in support of the proposed Mid-Coast Corridor (Trolley) Transit Project under	Rose creek	**(P):** 0.005 acres of Wetland	No mitigation proposed	R9-2013-0174 Enrollment in State Water Resources

Quarterly Dredge and Fill Project Action Report **October - December 2013**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres)[1]	MITIGATION (Acres)[1]	CERTIFICATION/ WDR ACTION[2]
			USACE Nationwide Permit No. 6.				Control Board General Water Quality Certification of U.S. Army Corps of Engineers 2012 Nationwide Permits
11/20/2103	City of San Diego	Alta La Jolla Drive Drainage Repair Project	The project includes earthwork to stabilize canyon slopes to protect adjacent homes, repair and restore a severely incised drainage channel, construct a storm drain system to restore hydraulics in the restored channel to pre-development conditions, and construct a detention basin to improve water quality and to attenuate 100-year peak flood events.	Unnamed tributary in Alta La Jolla Canyon	**(P):** 0.06 acres of stream channel **(T):** 0.36 acres of streambed	**Restoration:** 0.68 acres of streambed **Enhancement:** 0.22 acres of streambed	10C-033 Order for Technically-conditioned Certification Enrollment in SWRCB GWDR Order No. 2003-17 DWQ
11/22/2013	Orange County Public Works	La Pata Avenue Extension Project	The project will widen La Pata Avenue from three to five lanes from approximately 900 feet south of State Route 74 (SR-74) in the City of San Juan Capistrano to the existing road terminus at the Orange County Prima Deshecha Landfill; implement a gap closure by constructing four new lanes from the existing terminus to the intersection of Calle Saluda and Avenida La Pata in the City of San Clemente; and extend Camino Del Rio as a four-lane roadway from its existing terminus in the Forster Ranch community of San Clemente to the proposed Avenida La Pata Roadway in Orange County, California. The roadway cross section includes 8-foot wide shoulders on each side of La Pata Avenue to accommodate Class II	Eight unnamed ephemeral tributaries to San Juan Creek; 8 unnamed ephemeral tributaries to Prima Deshecha Cañada and Prima Deshecha Cañada itself; and 6 unnamed ephemeral tributaries to Segunda Deshecha Cañada	**(P):** 1.48 acres of streambed **(P):** 0.04 acres of wetland **(T):** 0.06 acres of Streambed and Riparian Zone **(T):** 0.02 acres of wetland	**Establishment:** 0.13 acres of wetland **Reestablishment:** 0.60 acres of streambed and riparian **Reestablishment:** 0.02 acres of wetland **Reestablishment:** 4.69 acres of streambed **Enhancement:** 9.38 acres of streambed	12C-056 Order for Technically-conditioned Certification Enrollment in SWRCB GWDR Order No. 2003-17 DWQ

Quarterly Dredge and Fill Project Action Report **October - December 2013**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres)[1]	MITIGATION (Acres)[1]	CERTIFICATION/ WDR ACTION[2]
			bicycle lanes. The road will parallel interstate 5 and will function as a primary arterial highway through southern Orange County. There are multiple stream and wetland crossings within the project footprint.				
11/27/2013	San Elijo Lagoon Conservancy	San Elijo Lagoon Mouth Maintenance Project	The project was originally certified 12/02/2008 and is now amended for the first time on 11/27/2013. The project involves maintenance activities at the inlet of the San Elijo Lagoon consisting of Emergency Breaches, Emergency Openings, and Maintenance Openings. Amendment 1 extends the certification term for an additional 5 years through December 2, 2018.	San Elijo Lagoon	No Changes to Impacts	No Changes to Mitigation	Amendment 1 to Certification No. 08C-072
12/3/2013	California Department of Parks & Recreation, San Diego Coast District	Los Peñasquitos Lagoon Mouth Maintenance Project	The project was originally certified 12/4/2008 and is now amended for the first time on 12/3/2013. The project involves maintenance activities to the Los Peñasquitos Lagoon mouth in order to restore the tidal flow of water through the lagoon and the placement of dredged sediment in the surf zone of the nearby beach. Amendment 1 extends the term for an additional 5 years through December 4, 2018.	Los Peñasquitos Lagoon	No Changes to Impacts	No Changes to Mitigation	Amendment 1 to Certification No. 07C-094
12/4/2013	City of San Diego	Buchanan Canyon Sewer Blockage Emergency Repairs	Cleaning equipment became lodged inside a sewer line during routine cleaning of the sewer main in Buchanan Canyon which restricted and blocked sewage flow. An existing pathway was widened to allow construction equipment into the repair site. Two excised streambed crossing were temporarily filled to gain access and	Unnamed Tributary to San Diego River	**(T):** 0.16 acres of streambed	**Restoration:** 0.16 acres of streambed	R9-2013-0185 Enrollment in State Water Resources Control Board General Water Quality Certification of Repair and Protection Activities in

Quarterly Dredge and Fill Project Action Report **October - December 2013**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres)[1]	MITIGATION (Acres)[1]	CERTIFICATION/ WDR ACTION[2]
			extensive excavation of the pipe was needed to repair the blockage.				Emergency Situations
12/6/2013	22nd District Agricultural Association	Del Mar Salt Marsh Restoration Project NWP 32	The project is the restoration of approximately 4.64 acres of subtidal, mudflat, salt marsh, and transitional habitat. The restoration is separated into two distinct restoration areas: the South Overflow Parking Lot area and the East Berm area. 3.18 acres of restoration would occur within the South Lot and 1.46 acres of restoration would occur within the East Berm site. The Buffer Site will restore 3.52 acres of transitional and coasted sage scrub habitats along the northern boundary of the existing San Dieguito River Park Joint Powers Authority pedestrian footpath. Excess material generated by grading within the Salt Marsh Restoration areas will be used within portions of the Buffer Site Upland Habitat area.	San Dieguito Lagoon	**(T):** 0.89 acres of wetland	**Restoration:** 4.64 acres of wetland	R9-2013-0175 Enrollment in State Water Resources Control Board General Water Quality Certification of U.S. Army Corps of Engineers 2012 Nationwide Permits
12/13/2013	North County Transit District (NCTD)	Bridge 243.0 San Dieguito River Emergency Pile Wraps Project	In 2001 the NCTD performed pile wrapping and bracing work repairs to Bridge 243.0 over the San Dieguito River. Between 2001 and 2013, up to 9 feet of scour in the riverbed has occurred and has exposed the wooden piles below the wraps that were previously installed. In its current condition, the bridge has the potential for catastrophic failure of one or more of the piles that are exposed due to marine borers (ship worms). The emergency repairs consist of applying additional, deeper rubber wrapping to the exposed piles (plus	San Dieguito River Lagoon Channel	**(T):** 0.0023 acres of riverbed	No Mitigation Proposed	R9-2013-0188 Enrollment in State Water Resources Control Board General Water Quality Certification of Repair and Protection Activities in Emergency Situations

Quarterly Dredge and Fill Project Action Report **October - December 2013**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres)[1]	MITIGATION (Acres)[1]	CERTIFICATION/ WDR ACTION[2]
			an additional foot of pile in the riverbed will be exposed and wrapped). Divers will excavate around each of the piles, apply the wrap, and then backfill with the excavated sediment. This repair is temporary until a permanent solution is designed and permitted.				
12/18/2013	California Department of Transportation District 11	Swiss Park Culvert Maintenance Project	The project is routine maintenance (sediment and debris removal) on an existing concrete-lined, man-made channel which will improve the flow through the channel and avoid flooding of the adjacent property (Swiss Park).	Unnamed tributaries to San Diego Bay	**(T):** 0.07 acres of streambed	No Mitigation Proposed	R9-2013-0161 Order for Low Impact Certification Enrollment in SWRCB GWDR Order No. 2003-017 DWQ
12/19/2013	Orange County Public Works/Orange County Parks	Aliso Creek Ocean Outlet Maintenance	The project was originally certified 10/17/2006. The certification was amended for the first time on 10/19/2009 in response to continuous violations of the certification, and a second time on 11/01/2011 to allow bi-annual maintenance work and bi-weekly grading to the sand berm of the outlet. The certification was amended for a third time on 12/19/2013. This amendment extends the term an additional 5 years through December 31, 2018.	Aliso Creek	No Changes to Impacts	No Changes to Mitigation	Amendment 3 to Certification No. 05C-009
12/19/2013	City of Murrieta	Line G Emergency Repair Project	The project involves conducting emergency repairs at the downstream end of the box culvert under Nutmeg Street within the Maser Drainage Plan Line G channel. This includes repair to a double box culvert and its associated spillway and wing walls along with the replacement of rip	Unnamed tributary to Murrieta Creek	(T): 0.08 acres of streambed	**Restoration**: 0.08 acres of streambed	R9-2013-0190 Enrollment in SWRCB GWDR Order No. 2004-004-DWQ

Quarterly Dredge and Fill Project Action Report **October - December 2013**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres)[1]	MITIGATION (Acres)[1]	CERTIFICATION/ WDR ACTION[2]
			rap. The existing unnamed tributary to Murrieta Creek will be restored to its past stream course prior to the streambed and spillway/wing wall erosion. The stream course has been temporarily altered to a northerly direction, which is currently causing ongoing erosion within upland areas protecting Nutmeg Street and its right-of-way from potential slope failure and road closure.				
12/27/2013	SDG&E	Jamacha Access Road Repair ETS 24944	The project is the repair of a small portion of an access road that was washed out by a stream crossing. The repair will involve excavating within the limits of the existing road, the placement of 25 square yards of filter fabric within the project footprint, and the placement of approximately 11 cubic yards (CY) of crushed rock within the project area. Less than 10 CY of soil is anticipated to be excavated; this material will be spread out across the existing dirt road and tracked over.	Sweetwater River	(P): 0.0004 acres of streambed	**Establishment**: 0.0004 acres streambed at Rancho Jamul Mitigation Bank	R9-2013-0155 Order for Technically-conditioned Certification Enrollment in SWRCB GWDR Order No. 2003-17 DWQ

1. Wetland refers to vegetated waters of the United States and streambed refers to unvegetated waters of the United States (P) = permanent impacts. (T) = temporary impacts, temporary impacts are restored to pre-project conditions.

2. Low impact certification is issued to projects that have minimal potential to adversely impact water quality. Conditional certification is issued to projects that have the potential to adversely impact water quality, but by complying with technical conditions, will have minimal impacts. Denials are issued when the project will adversely impact water quality and suitable mitigation measures are not proposed or possible. Withdrawn refers to projects that the applicant or San Diego Water Board have withdrawn due to procedural issues that have not been corrected within one year.

Enforcement Date	Enforcement Action	Facility	Summary of Violations
November 1, 2013	Time Schedule Order No. R9-2013-0095	Naval Base San Diego	Time Schedule Order implementing a schedule for the United States Department of the Navy, Naval Base San Diego Complex to comply with requirements prescribed in NPDES Order No. R9-2013-0064.
November 13, 2013	Administrative Civil Liability Order No. R9-2013-0135	Enniss Inc.	Stipulated settlement order imposing $4,251 in penalties for failure to submit annual monitoring reports for industrial storm water discharges, required by Order No. 97-03-DWQ.
December 11, 2013	Administrative Civil Liability Order No. R9-2013-0137	City of La Mesa	Stipulated settlement order imposing $801,462 in penalties against the City of La Mesa for sewage overflows in December 2010.
November 21, 2013	Administrative Civil Liability Complaint No. R9-2013-0152	City of Encinitas and USS Cal Builders Inc.	Administrative Civil Liability Complaint recommending a penalty of $430,851 for unauthorized sediment discharges and inadequate BMPs pursuant to Orders No. 2009-0009-DWQ and R9-2007-0001.
November 19, 2013	Cleanup and Abatement Order No. R9-2013-0022	Mr. Earnest and Mrs. Joyce Moretti and Donan Environmental Services Inc.	Order directing cleanup and abatement of waste at the former Santa Ysabel Chevron Station, 30350 Highway 78, Santa Ysabel, CA
December 12, 2013	Cleanup And Abatement Order No. R9-2013-0009; Addendum 1	Rancho Guejito Corporation	Addendum to extend due dates for restoration and mitigation requirements in Cleanup Order No. R9-2013-0009.
November 7, 2013	Notice of Violation No. R9-2013-0166	Frontier Towing and Storage	Failure to develop and implement a SWPPP, develop and implement BMPs, implement good housekeeping, and submit an annual monitoring report; all required by Order No.97-03-DWQ.
November 26, 2013	Notice of Violation No. R9-2013-0167	City of San Diego, South Chollas Landfill	Inadequate erosion control BMPs in violation of Order No. R9-2012-0001 for closed, abandoned, or inactive nonhazardous solid waste units.

Enforcement Date	Enforcement Action	Facility	Summary of Violations
November 6, 2013	Notice of Violation No. R9-2013-0168	Oak Springs Ranch, Tract 31736	Unauthorized discharges of sediment, failure to file a SWPPP and site map, failure to provide a SWPPP upon request, failure to implement adequate BMPs, and failure to inspect and implement repairs; all required by Order No.2009-0009-DWQ.
November 19, 2013	Notice of Violation No. R9-2013-0176	Baker Iron Works Inc.	NOV for failure to develop and implement a SWPPP, implement and maintain BMPs, conduct required sampling and analysis, and submit an annual monitoring report; all required by Order No. 97-03-DWQ.
November 12, 2013	Notice of Violation No. R9-2013-0171	Bart's Iron Design	NOV for failure to develop and implement a SWPPP, implement and maintain BMPs, and submit an annual monitoring report; all required by Order No. 97-03-DWQ.
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Aztec Perlite Co.	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Baker Iron Works Inc.	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Bart's Iron Design	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Cor O Van Co.	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Express Truck & Auto Recycling	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Frontier Towing and Storage	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Harrison Trucking	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Imperial Auto Wrecking	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ

Enforcement Date	Enforcement Action	Facility	Summary of Violations
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Mike's Metal Works Inc.	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Minshew Bros. Steel Const Inc.	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Multimodal Esquer Inc.	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Pickering Properties LLC	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Rainbow Steel Inc.	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	San Diego Granite Inc.	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Signet Armorlite Inc.	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
November 6, 2013	Notice of Noncompliance per CWC 13399.30	Traditional Boat Works	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
December 6, 2013	Notice of Noncompliance per CWC 13399.30	Bart's Iron Design	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
December 10, 2013	Notice of Noncompliance per CWC 13399.30	Aztec Perlite Co.	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
December 10, 2013	Notice of Noncompliance per CWC 13399.30	Baker Iron Works Inc.	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
December 10, 2013	Notice of Noncompliance per CWC 13399.30	Express Truck & Auto Recycling	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
December 10, 2013	Notice of Noncompliance per CWC 13399.30	Frontier Towing and Storage	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ

Enforcement Date	Enforcement Action	Facility	Summary of Violations
December 10, 2013	Notice of Noncompliance per CWC 13399.30	Harrison Trucking	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
December 10, 2013	Notice of Noncompliance per CWC 13399.30	Imperial Auto Wrecking	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
December 10, 2013	Notice of Noncompliance per CWC 13399.30	Multimodal Esquer Inc.	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
December 10, 2013	Notice of Noncompliance per CWC 13399.30	Pickering Properties LLC	Failure to submit technical reports pertaining to storm water discharges, as required by Order No. 97-03-DWQ
December 10, 2013	Notice of Noncompliance per CWC 13399.30	National Steel and Metals	Failure to enroll for coverage as required by Order No. 97-03-DWQ
December 13, 2013	Notice of Noncompliance per CWC 13399.30	GM Materials	Failure to enroll for coverage as required by Order No. 97-03-DWQ
December 31, 2013	Notice of Noncompliance per CWC 13399.30	A & L Tile	Failure to enroll for coverage as required by Order No. 97-03-DWQ
December 31, 2013	Notice of Noncompliance per CWC 13399.30	Scrap Depot	Failure to enroll for coverage as required by Order No. 97-03-DWQ
November 8, 2013	Staff Enforcement Letter	FedEx Freight	Staff enforcement letter for insufficient documentation, and inadequate BMPs pursuant to Order No. 2009-0009-DWQ.
November 8, 2013	Staff Enforcement Letter	Mercedes Benz of Temecula	Staff enforcement letter for insufficient documentation of training and inspections, and inadequate BMPs pursuant to Order No. 2009-0009-DWQ.
November 12, 2013	Staff Enforcement Letter	Soji Akanwo	Non-payment of annual fees for WDR Order No. R9-2009-0147 (Onsite Wastewater Treatment System).
November 14, 2013	Staff Enforcement Letter	Brown Field Technology Park	Staff enforcement letter for insufficient and inadequate BMPs pursuant to Order No. 2009-0009-DWQ.
November 14, 2013	Staff Enforcement Letter	Kkottongnae Retreat Camp	Monitoring report review revealed exceedance of daily maximum effluent limitation for Total Dissolved Solids (TDS) in WDR Order 86-48.

Enforcement Date	Enforcement Action	Facility	Summary of Violations
November 14, 2013	Staff Enforcement Letter	Pinecrest Park	Monitoring report review revealed exceedance of daily maximum and 30-day average effluent limitations for iron in WDR Order 93-43.
November 15, 2013	Staff Enforcement Letter	US Navy Remote Training Site (Formerly SERE Camp), Warner Springs	Exceeded daily maximum and 12-month average effluent limitation for Total Dissolved Solids (TDS) in WDR Order 93-11.
November 19, 2013	Staff Enforcement Letter	Field House Central Plant Fields	Staff enforcement letter for inadequate BMPs pursuant to Order No. 2009-0009-DWQ.
November 19, 2013	Staff Enforcement Letter	McCabe Nursery	Staff enforcement letter for unlawful discharge of dredge and fill material in waters of the US.
November 20, 2013	Staff Enforcement Letter	San Diego County Regional Airport Authority, 104146 SanPark 2 PacHwy North	Staff enforcement letter for inadequate implementation of sediment and erosion control BMPs pursuant to Order No. 2009-0009-DWQ.
November 21, 2013	Staff Enforcement Letter	San Diego County Regional Airport Authority, 104118 North Side Interior Road and Utilities	Staff enforcement letter for inadequate implementation of sediment and erosion control BMPs pursuant to Order No. 2009-0009-DWQ.
November 21, 2013	Staff Enforcement Letter	Landmark Aviation	Staff enforcement letter for inadequate BMPs pursuant to Order No. 2009-0009-DWQ.
November 22, 2013	Staff Enforcement Letter	Residence Inn by Marriott	Staff enforcement letter for inadequate implementation of sediment and erosion control BMPs pursuant to Order No. 2009-0009-DWQ.
November 27, 2013	Staff Enforcement Letter	South Bay Bus Maintenance Facility	Staff enforcement letter for insufficient and inadequate BMPs pursuant to Order No. 2009-0009-DWQ.
December 13, 2013	Staff Enforcement Letter	San Diego Zoo's Safari Park	Missing monitoring data and exceeded 7-day median and daily maximum effluent limitations for Total Coliform as required in Order No. 99-04.
December 16, 2013	Staff Enforcement Letter	Pine Valley STP	Exceeded 12-month average effluent limitation for Total Dissolved Solids (TDS), pursuant to WDR Order No. 94-161.

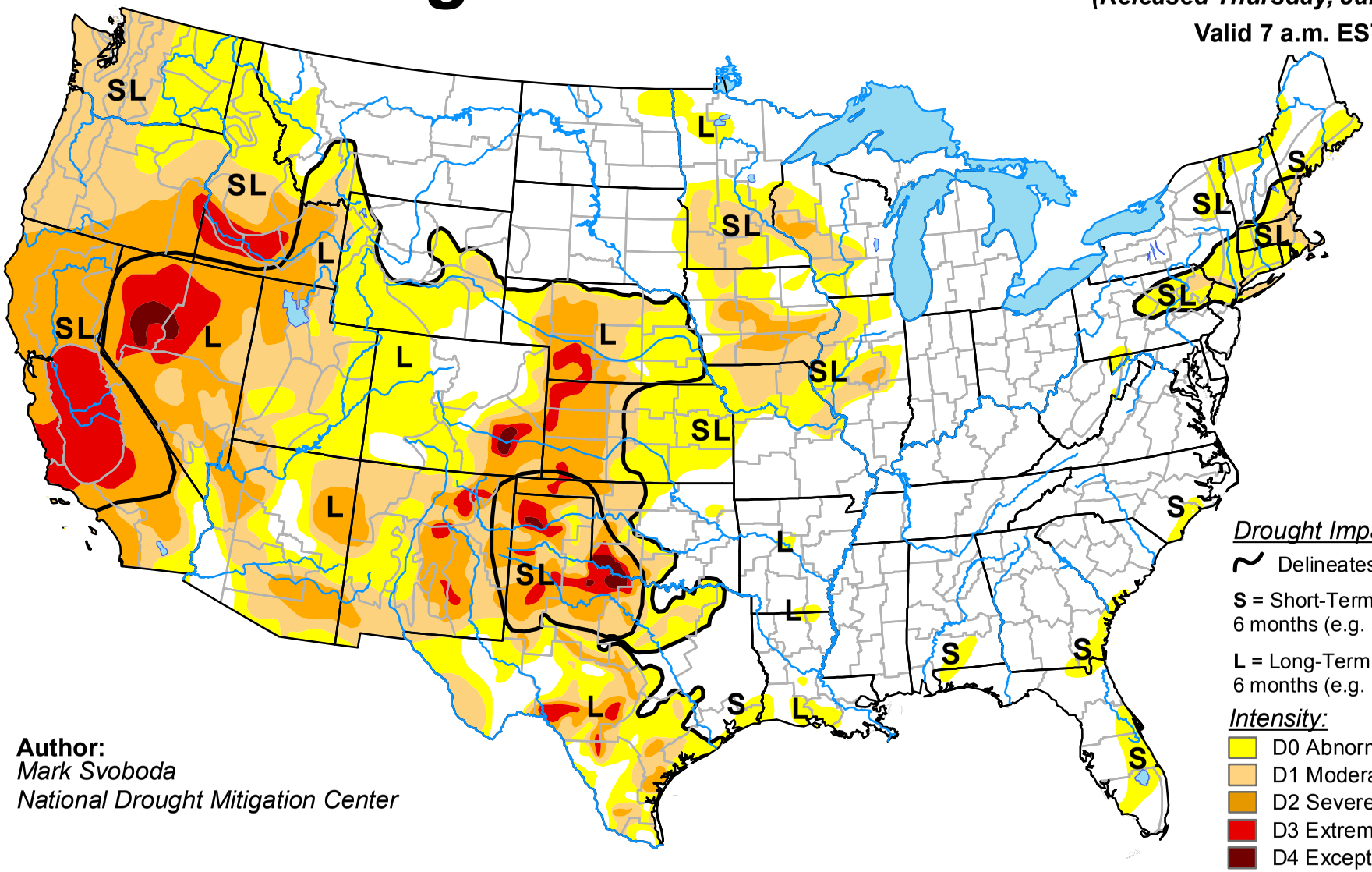
Enforcement Date	Enforcement Action	Facility	Summary of Violations
December 17, 2013	Staff Enforcement Letter	USMC Camp Pendleton, Southern Regional Tertiary Treatment Plant	Exceeded daily maximum effluent limitation for percent sodium and manganese, as required in Order No. R9-2009-0021.
December 19, 2013	Staff Enforcement Letter	A and L Tile	Staff enforcement letter for insufficient documentation, and inadequate BMPs pursuant to Order No. 97-03-DWQ.

U.S. Drought Monitor

January 7, 2014

(Released Thursday, Jan. 9, 2014)

Valid 7 a.m. EST



Author:
Mark Svoboda
National Drought Mitigation Center

Drought Impact Types:

~ Delineates dominant impacts

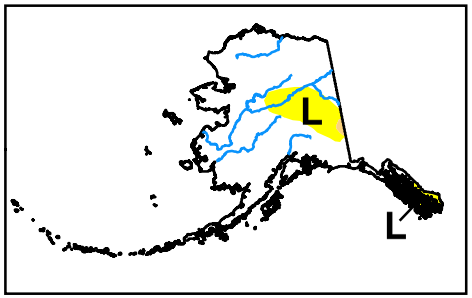
S = Short-Term, typically less than 6 months (e.g. agriculture, grasslands)

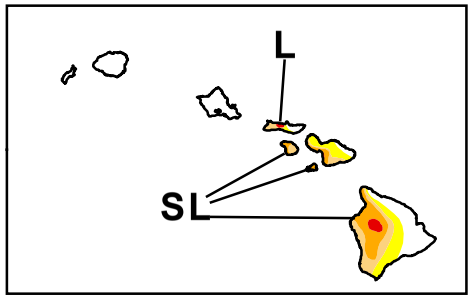
L = Long-Term, typically greater than 6 months (e.g. hydrology, ecology)

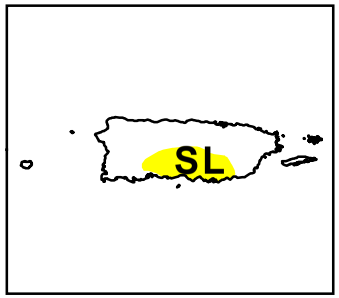
Intensity:

- D0 Abnormally Dry
- D1 Moderate Drought
- D2 Severe Drought
- D3 Extreme Drought
- D4 Exceptional Drought

The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. See accompanying text summary for forecast statements.







USDA National Drought Mitigation Center

http://droughtmonitor.unl.edu/