



CSPA

June 13, 2007

Ms. Tam Doduc, Chair and Board Members  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814  
*Via Email:* [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)



**Re: June 28, 2007 Workshop: "Policy Direction on Water Quality Enforcement"**

Dear Chair Doduc and Board Members:

On behalf of the California Coastkeeper Alliance (CCKA), which represents 12 Waterkeepers spanning the state from the Oregon border to San Diego,<sup>1</sup> NRDC, Heal the Bay, Sierra Club California, Environment California, the California Sportfishing Protection Alliance, and the Pacific Coast Federation of Fishermen's Associations, we welcome the opportunity to submit these initial comments pertaining to the above-described workshop on water quality enforcement. The issue of enforcement of environmental laws generally, and water quality laws in particular, has been the subject of at least two Cal/EPA directives in recent years, both of which highlighted the need for significant, specific improvements in enforcement at the State and Regional Water Board levels.<sup>2</sup> While some action has been taken on several of the recommendations in these and other directives, it is our experience that there remains continued, systemic problems with enforcement that simply will not be redressed without a policy direction overhaul and accompanying redirection of staff resources.

In brief, our concerns with respect to enforcement of state and federal water quality laws can be divided roughly into the following categories:

<sup>1</sup> Klamath Riverkeeper, Humboldt Baykeeper, Russian Riverkeeper, San Francisco Baykeeper, Monterey Coastkeeper, San Luis Obispo Coastkeeper, Santa Barbara Channelkeeper, Ventura Coastkeeper, Santa Monica Baykeeper, Orange County Coastkeeper and Inland Empire Waterkeeper chapter, and San Diego Coastkeeper.

<sup>2</sup> Memorandum from Terry Tamminen, Secretary, Cal/EPA to BDOs, (November 30, 2003) ("Cal/EPA Enforcement Initiative"); Memorandum from Alan Lloyd, Secretary, Cal/EPA to Art Baggett, Chair, SWRCB, (March 23, 2005) (Lloyd Memo).

- **There is a complete failure to enforce entire categories of laws.** This includes failure to enforce Porter-Cologne requirements with respect to many polluted runoff discharges to surface water, as well as the vast majority of discharges to groundwater.
- **The system of enforcement of permits by the permit writers is inherently flawed.** The need to separate permit writing and enforcement duties was specifically identified in the 2005 Lloyd Memo.
- **Permits are written in many cases to be unenforceable.** This reflects two major concerns: first, a lack of clarity in the provisions themselves (which are often ambiguous and subjective); and second, a lack of enforceable deadlines for compliance. As to the latter, compliance schedules often extend indefinitely the time for meeting legal requirements, leading to ongoing water quality degradation.
- **There is little on-the-ground-enforcement presence.** Regular visits from personnel – State or Regional Board or other enforcement personnel – are needed both for enforcement and education purposes.
- **Fines and penalties fail to address and solve the problem at hand.** Typically low to nonexistent, they at best they appear to be driven by MMPs, which were adopted to ensure that some enforcement action was taken, not to become the focus of the enforcement program. Streamlining the MMP process would free up staff time to focus on consent decrees, higher penalties, and other measures needed to deter and redress violations.
- **There is no reliable system for staff, decisionmakers or the public to track enforcement actions and compliance rates.** Despite many millions of dollars spent over the years and clear legislative and administrative direction in this area, the State and Regional Boards have yet to develop a reliable enforcement tracking system. Without such a system, there can be no needed course correction or proper allocation of enforcement resources.

Tinkering with the existing Enforcement Policy will not address these concerns. A new approach and renewed commitment to enforcement is needed to ensure that continued violations stop and water quality improves. We outline a few examples of each category of concerns below, and welcome the opportunity to discuss them with you further at the June 28<sup>th</sup> workshop.

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### **There Is a Complete Failure to Enforce Entire Categories of Laws.**

The federal Clean Water Act regulates discharges by point sources to waters of the U.S. to protect the health of those waters. Discharges by all pollution sources, both point and nonpoint, to both surface water and groundwater are regulated by California's Porter-Cologne Water Quality Control Act. Specifically, Porter-Cologne requires all who discharge or propose to discharge waste "that could affect the quality of the waters of the state" (defined as including groundwater) to report the discharge to the local Regional Water Quality Control Board. (Cal. Water Code § 13260.) The local Regional Board may regulate various discharges with WDRs or, if appropriate, with "waivers of WDRs, with conditions" to ensure that those discharges do not impact use of the state's waters. Water Code section 13269(a)(1) specifies, however, that waivers of WDRs should only be issued where the Regional Board has determined that a waiver would both be in the public interest and is "consistent with any applicable state or regional water quality control plan."

Although the Porter-Cologne Act gives the Regional Boards a clear directive to regulate all sources of pollution to surface water and groundwater, including polluted runoff not regulated under the federal Clean Water Act, the Regional Boards all continue to fail completely to enforce these provisions for one more categories of polluted runoff to surface water, and for almost all categories of pollution to groundwater. These illegal discharges cause and contribute to significant and lasting degradation of surface and groundwater, and yet no action on redressing this enforcement chasm is discernable. For example, the Lost River, the Scott River and the Shasta Rivers are case studies for what lack of enforcement of can do to waterways, as these rivers suffer from continued agricultural, CAFO and other discharges and are not meeting their beneficial uses beyond agriculture water supply.

The State Water Board's 2006 Enforcement Report to the Legislature indirectly acknowledges this problem by reporting only on discharges to surface water under the federal Clean Water Act.<sup>3</sup> There is no similar reporting for enforcement of violations under Porter-Cologne, which of course covers many more discharge activities and correspondingly more enforcement actions (in theory). If the Regional Boards do not act to enforce these laws, the State Board should step in to protect the health of the state's surface and groundwater.

Even where there is an acknowledgment that some enforcement is necessary, often violations are not handled by enforcement but by stakeholder groups that are not set up as guardians of water health. For example, the Central Valley Regional Board takes complaints from citizens about dairies discharging raw waste onto their property and waterways, and then simply forwards many of those to the Dairy Task Force, which takes little to no formal action or follow-up under state or federal water quality law. As noted in the next section, enforcement units within the State Water Board and each Regional Water Board are the appropriate entities to handle enforcement, not stakeholder groups or permit writers.

### **The System of Enforcement of Permits by the Permit Writers Is Inherently Flawed.**

As articulated by the Secretary in the 2005 Lloyd Memo, the current system whereby the permit writers enforce their own permits is inherently flawed. Dr. Lloyd recommended instead that the State and Regional Boards “[c]reate a clear division of duties between permitting and enforcement staff, including separating Board legal counsel from enforcement attorneys, and redirect more regulatory staff as enforcement duties are increased.”<sup>4</sup> He also recommended that there be “dedicated enforcement units at each Regional Water Quality Control Board”;<sup>5</sup> we would add to that that there should be an attorney at each Regional Board full-time on enforcement.

In addition, in light of new SB 729 enforcement authority, the State Water Board needs to develop its own policy for taking enforcement action when the regional boards fail to do so. This is critical authority that should not be ignored in an attempt to spare a Regional Board some potential embarrassment. Carefully targeted State Board enforcement actions will help raise the bar for enforcement across the state and benefit all Regional Boards, as well as the waters that they are mandated to protect. Such actions should be the primary goal of the State Water Board's new

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<sup>3</sup> SWRCB, *Enforcement Report per Cal. Water Code Sec. 13385(o)* (Aug. 18, 2006)

[http://www.waterboards.ca.gov/legislative/docs/2005/enforcementrpt2004\\_13385o.pdf](http://www.waterboards.ca.gov/legislative/docs/2005/enforcementrpt2004_13385o.pdf) (2006 Enforcement Report).

<sup>4</sup> Lloyd Memo at 2.

<sup>5</sup> *Id.*

enforcement unit, which is a potential model for separation of permit writing and enforcement that should be replicated throughout the regions.

### **Permits Are Written in Many Cases to Be Unenforceable.**

#### *Lack of Clarity in the Permits Themselves*

The 2003 Cal/EPA Enforcement Initiative succinctly found that:

Currently, one of the greatest difficulties faced by enforcement staff is complicated, ambiguous and/or poorly written permits or multiple, conflicting and confusing regulatory requirements that are unenforceable. Permit requirements must be unambiguous. They should be written in such a way that they are clear, easy to understand, and determining compliance is simple. Similarly, the enforcement consequences for violation should be clear.<sup>6</sup>

The lack of clarity and objectivity in the permits impacts enforcement, which necessarily becomes extremely staff-intensive. Straightforward requirements will lend themselves to straightforward enforcement and conserve valuable staff resources. For this reason, the 2005 Lloyd Memo recommended that:

Where appropriate to achieve water quality protection, numeric limits based on sound science should be incorporated into permits that define the allowable discharge or pollutants that the Boards determine are high priority.<sup>7</sup>

We agree with the Secretary that numeric limits, as well as clearly established deadlines, are essential to a sound enforcement program.

#### *Lack of Enforceable Deadlines for Compliance.*

Permits also become unenforceable if their requirements are continually extended, as is the case with many permits now. We wrote in detail to the State Water Board on this issue in our letter dated October 19, 2006 on the problems associated with lengthy compliance schedules; this letter is included for the Board's reference.

In addition to lengthy compliance schedules, we have informed the Board regularly about the problems associated with "serial TSOs" and lack of enforcement of TSOs. For example, a situation exists in Region 4 where a discharger has received at least three TSOs over five years and is currently up to over \$1 million in penalties at an F-rated beach. A TSO is meaningless unless it is one TSO and one TSO only, which should include enforceable milestones and mandatory minimum penalties. Enforcement should begin on the first day after the TSO deadlines pass, rather than allowing for yet another TSO with a lack of enforcement – commonplace even where effluent limits are not close to being met – to be assigned instead.<sup>8</sup>

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<sup>6</sup> 2003 Enforcement Initiative at 8.

<sup>7</sup> 2005 Lloyd Memo at 2.

<sup>8</sup> See, e.g., Letter from Dr. Mark Gold, Heal the Bay to Jonathan Bishop, LA RWQCB (Aug. 28, 2006); Letter from Kirsten James and Dr. Mark Gold, Heal the Bay and Mati Waiya, Wishtoyo Foundation to Deborah Smith, LA RWQCB (June 6, 2007).

## **There Is Little On-The-Ground-Enforcement Presence.**

Of over 1,500 State and Regional Water Board staff, only a handful are on the ground identifying violations of water quality laws. As a result, the State Water Board's 2006 Enforcement Report found that "Water Board staff does not detect violations for several months after they occur."<sup>9</sup> Public Record Act requests, for example, found that in Region 2, well under 10% of industrial stormwater permittees are checked each 2-3 year review cycle; this is likely typical of many Regional Boards.

Increases in efficiencies from clearer permit requirements, as discussed above, will free up staff to spend more time in the field. Moreover, partners should be sought in other entities with enforcement authority. For example, Department of Fish and Game wardens have pollution authority under Fish and Game Code Section 5650 and are regularly in the field. Increased training for firefighters (who have hazardous waste responsibilities), building inspectors, and other government officials may provide assistance in enforcement of stormwater permits. Finally, improvements in development project review (EIRs) and auditing of municipal Jurisdictional Urban Runoff Management Plan (JURMP) annual reports for enforcement statistics will also help streamline municipal stormwater permit enforcement.

## **Fines and Penalties Fail to Address and Solve the Problem at Hand.**

Table 8 of the State Board's 2006 Enforcement Report<sup>10</sup> lists violations and their follow-up actions. Of the listed NPDES permit violations that were actually identified, fully 86% statewide were left without a completed enforcement actions; 9% only received a letter, and just 7% had formal action taken. Indeed, the same report found that only 41% of violations requiring mandatory minimum penalties actually received those penalties.<sup>11</sup> In fact, many of the enforcement activities appear to be driven by MMPs, particularly where they are straightforward to calculate. As Table 8 indicates, more than that is rarely imposed. This "race to the bottom" process fails to target violations based on potentially more meaningful criteria, such as the seriousness of the impacts, and rarely results in relief other than MMPs (*e.g.*, few significant penalties or consent decrees with injunctive relief that will actually solve problems). Finally, again based on PRAs in Region 2, there is almost no effort to find non-filers, which is a particularly pervasive problem with under-regulated categories of discharges (as described above).

Two examples in San Diego illustrate the lack of enforcement activity and follow-up. The Hale Avenue Resource Recovery Facility (HARRF), owned by the City of Escondido, is permitted to discharge up to 16.5 MGD of treated wastewater directly into the Pacific Ocean. In December 2005, the Regional Board issued a complaint against the City of Escondido for more than 400 violations of HARRF's discharge permits during 2004 and 2005. The complaint called for over \$1 million in fines for these violations, which includes the EPA's Water Code minimum penalties for significant violators. In May 2006, the City proposed a settlement that a third of the penalties off the top, a proposal that ignored federal minimum penalties as well as other federally mandated liabilities. In October 2006, the Regional Board accepted the City's settlement with no changes or revisions. This is just one example of how a Regional Board's enforcement policies allow generous

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<sup>9</sup> 2006 Enforcement Report at 5.

<sup>10</sup> *Id.* at 13.

<sup>11</sup> *Id.* at 15.

compromises in favor of significant violators of discharge permits and against the environment, which undermines the State's Water quality enforcement goals.

In another example, in 2003 a water main break on Harbor Drive in downtown San Diego discharged a significant amount of water which infiltrated through heavily contaminated soils located under the street and around the water main. This contaminated water filled with PCBs then discharged into the adjacent San Diego Bay waters, directly adjacent to a public walkway, the Maritime Museum, and a cruise ship terminal. (See enclosed photos.) The Maritime Museum had to be evacuated for the first time ever, due to the foul odors emitting from the contaminated water discharge into the Bay. Numerous agencies, including the City Water Authority, as well as Regional Water Board representatives evaluated and witnessed this illegal discharge (a violation of the City's stormwater permit), and worked together to fix the water main as well as analyze the damage done to the Bay waters. The Regional Board even collected samples from the contaminated area, and San Diego Coastkeeper wrote letters to the Regional Board demanding enforcement action. However, four years later, no enforcement action has been taken. The City of San Diego has numerous water main breaks per month – including 38 water main breaks and 12 sewage spills in January and February alone of this year. Water main breaks are a chronic problem around San Diego, and contributes to significantly polluted discharge into watersheds. Enforcement is essential to preventing further water main breaks and violations of stormwater permits from being similarly ignored.

Numerous other examples, many even more egregious, unfortunately abound throughout the state. Only a significant redirection of attention and commitment to enforcement through meaningful fines and penalties will begin to reverse this trend.

### **There Is No Reliable System for Staff, Decisionmakers or the Public to Track Enforcement Actions or Compliance Rates.**

A March 2006 report by U.S. PIRG found that “[n]ationally, more than 3,700 major facilities (62%) exceeded their Clean Water Act permit limits at least once between July 1, 2003 and December 31, 2004” and that “[t]hese facilities often exceed their permits more than once and for more than one pollutant.”<sup>12</sup> California, however, was one of only three states excluded from this report because it “failed to provide reliable data to EPA.”<sup>13</sup> (There is no reason not to assume that, with reliable reporting, California would demonstrate similar compliance problems.) The State Board's August 2006 Enforcement Report similarly found that enforcement “data quality and completeness problems persist.”

As noted in the September 15, 2006 CCKA letter to the State Water Board on enforcement, CIWQS,<sup>14</sup> which is the current vehicle for reporting enforcement activity, is a noble vision of integrated permit, compliance, enforcement and water quality reporting. However, as with its predecessors (WDS, SWIM1, SWIM2, WIN, etc.), CIWQS suffers from significant deficiencies that were recently examined by a panel of nationwide experts. As a result, the reliability of the State Board's 2006 Enforcement Report – which was due to the Legislature on January 1, 2006, but

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<sup>12</sup> U.S. PIRG, *Troubled Waters: An analysis of Clean Water Act compliance, July 2003- December 2004*, <http://www.uspirg.org/uploads/iN/ZM/iNZM2tGz4x7smwVULhTpow/troubledwaters06.pdf>, Executive Summary (March 23, 2006).

<sup>13</sup> *Id.* at 9.

<sup>14</sup> California Integrated Water Quality System Project, <http://www.swrcb.ca.gov/ciwqs/index.html>.

provided only after the Legislature requested it in August – is questionable at best. For example, Table 2 of the Enforcement Report indicates that violations of NPDES waste discharge requirements went down by 50% or more in four of the nine regions over the last year; this figure goes up to five of the nine regions if Region 8, in which violations reportedly dropped just under 50%, is included. With no reasonable level of confidence in the data, decisionmakers do not know whether to prioritize their enforcement dollars toward the seemingly “lower-performing” four regions, or conversely to spend the money doing a better job collecting violation information in the five regions that may be missing enforcement data.

A CIWQS report to the State Water Board at the Board meeting on June 5, 2007 confirmed that the CIWQS enforcement reporting system is largely nonfunctional as of today, and that numerous corrections need to be made before the system is reliably usable. Without regular, transparent, quality, and easily accessible data and reports from the State and Regional Water Boards, the public cannot hold its government accountable for implementing and enforcing state and federal water quality laws. Such information is also essential in order to prioritize use of limited funds for enforcement, as it will help target areas that need particular attention and save funds on areas that are doing well. Indeed, the State Board itself concluded in the 2006 Enforcement Report that “[t]he SWRCB should institute a ‘Compliance Report Card’ on the Internet to engage the public in a productive dialogue about discharger performance, environmental effects, Water Board workload, and Water Board performance.” The State Board should insist on a reliable endpoint for when this type of basic information will be made available.

In addition, while there is at least some data on past enforcement activity, there is no real information available about pending enforcement actions, or what is being done about the violations that have no enforcement actions. The public should be able to see pending enforcement actions or specific violations that still need to be enforced. This will allow the public to track when actions are followed up on (as noted above, follow-up is relatively rare, but may improve if the public is observing).

One of the key recommendations in the Lloyd Memo was to “[m]easure compliance rates among all potential violators of water laws, filers and non-filers, and post information about violations and compliance rates on the Internet.”<sup>15</sup> This recommendation was echoed by the Legislature and Governor in 2006, when they passed into law SB 729. This new law requires the State and Regional Boards to report rates of compliance with the requirements of Porter-Cologne; identify and post summary lists of all enforcement actions undertaken by the regional boards and the dispositions of those actions, including any fines assessed, on a quarterly basis; and provide to the public notice of any proposed and final administrative civil liability actions, including waivers of ACL hearings. Significant work remains to comply with these clear and essential directives.

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The impacts of continued failure to enforce water quality laws are clear. Every listing of an impaired water body in the state is an example of a lack of enforcement, and the number of impaired waters is rising. California can afford no more delays in developing a meaningful enforcement program.

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<sup>15</sup> Lloyd Memo at 2.

We appreciate the opportunity to provide these comments, and we look forward to working with you to set California on an enforcement path that will ensure clean water now and in the future.

Sincerely,

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Attachment





**Water Main Break, at Maritime Museum, City of San Diego (2003)**  
Bruce Reznik, San Diego Coastkeeper



ENVIRONMENTAL ADVOCATES  
ATTORNEYS AT LAW

October 19, 2006

Selica Potter, Acting Clerk to the Board  
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Re: COMMENT LETTER - 10/25/06 BOARD MEETING, Basin Plan Issue No. 6

Dear State Water Resources Control Board:

This letter constitutes comments by the following public interest environmental organizations (collectively, “the Citizen Groups”) on Agenda Item No. 8, “consideration of a resolution approving an amendment to the Water Quality Control Plan for the San Diego Region addressing Basin Plan Issue No. 6, authorization of Compliance Time Schedules in National Pollutant Discharge Elimination System (NPDES) Requirements:”

California Coastkeeper Alliance, San Diego Coastkeeper, Baykeeper and its San Francisco Bay and Deltakeeper Chapters, Humboldt Baykeeper, Ecological Rights Foundation, Environmental Advocates, and Lawyers for Clean Water.

The San Diego Basin Plan amendment would authorize the San Diego Regional Board to issue so-called “compliance schedules” that delay the effective date of water quality-based effluent limitations (“WQBELs”) and impose much more lenient interim “performance-based” effluent limitations instead. This proposed amendment would add to the state’s current inconsistent patchwork of compliance schedule authorization provisions scattered in California water quality standards (WQS). The Citizen Groups urge the State Board to table consideration of the San Diego Basin Plan amendment—and any other compliance schedule authorization provisions—until after the State Board convenes and conducts workshops to study the compliance schedule issue comprehensively. The State Board should study the full cumulative impact of compliance schedule authorization provisions and should adopt a consistent statewide policy approach before acting further on any requested approvals of such provisions.

### ***I. Why Compliance Schedules Are Problematic.***

The Regional Boards are now increasingly using compliance schedules to gut half of the federal Clean Water Act (“CWA”)’s central regulatory scheme for protecting our waters. In the CWA, Congress mandated that all states set WQS to ensure that all state waters enjoy the quality needed to protect the public’s beneficial uses of those waters. In turn, Congress further required that dischargers comply by July 1, 1977 with WQBELs designed to ensure that WQS are met. Compliance schedules simply involve re-writing of the law to eviscerate the WQBEL requirement for the benefit of polluters and the ease of Regional Board staffs, who will necessarily have less enforcement to pursue and less polluter oversight to undertake.

Like other Regional Boards, the San Diego Regional Board contends that its compliance schedule amendment is justified as it “would provide the San Diego Water Board with an additional means to promote discharge compliance” with WQBELs. San Diego Regional Board, Resolution No. R9-2005-0238 (finding 7). This specious reasoning is equivalent to the California Highway Patrol announcing that doubling the speed limit is an effective way to promote compliance with the speeding laws. Making a law more lax certainly makes it easier to comply with, but hardly advances the purposes of that law.

Employing compliance schedules, Regional Board staff typically set so-called “interim performance-based limits,” which ironically often last the entire life of the permit, that are calculated to allow pollutant discharges as high as the polluter has ever discharged, plus an added margin of safety for the discharger, to ensure that the polluter has no risk of violating its permit. Moreover, compliance schedules have repeatedly allowed dischargers to legally spew high concentrations of toxic pollutants such as dioxins, mercury, copper, lead, nickel, selenium, PCBs, and pesticides into waters that the State of California officially lists as having impaired water quality for those very same pollutants. Compliance schedules allow dischargers to dump toxic pollutants to impaired waters for years at levels higher than those that Regional Board staffs calculate will cause or contribute to those waters’ impairment. Specific compliance schedule provisions vary, but the worst of them would authorize compliance schedules delaying the effective date of WQBELs until a total maximum daily load (“TMDL”) is developed for the waterway at issue or for up to twenty years. State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, enacted by State Board Resolution No. 2000-015 (March 2, 2000) and State Board Resolution No. 2005-0019 (February 24, 2005) (“State Implementation Plan” or “SIP”) (section 2.1).<sup>1</sup> TMDL development, as discussed further below, is proceeding at a snail’s pace, meaning compliance

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<sup>1</sup> EPA Region 9 refused to approve this portion of the SIP, yet at least Regional Board 2 has expressly relied upon it in issuing compliance schedules to last until TMDLs are developed. *See, e.g.*, San Francisco Regional Board, Order No. 01-067, NPDES No. CA0005134, Chevron U.S.A., Inc., Richmond Refinery (June 20, 2001).

schedules could routinely last for a generation for the hundreds of waters that are the most impaired in California.

The Citizen Groups could cite to many examples of compliance schedule abuse: oil refineries allowed to discharge dioxins, selenium, and heavy metals to San Francisco Bay for years on end at levels expected to contribute to the Bay's well-documented impairment for those pollutants, municipalities allowed to spew mercury into San Francisco Bay at similarly excessive levels, geothermal plants allowed to discharge high levels of arsenic to waters impaired for arsenic, and so forth. One of the most egregious, however, is the Central Valley Regional Board's approval of a compliance schedule for Empire Mine State Park ("Empire Mine") in NPDES Permit No. CA0085171. Rather than set effluent limitations necessary to ensure attainment of WQS, the Empire Mine Permit sets limits on the discharge of several toxic pollutants that are astonishingly higher. The Permit's limit on the discharge of cadmium is 60,000 times an appropriate WQS-based limit, on mercury 18,000 times higher, on thallium 12,000 times higher, on lead almost 1200 times higher, on zinc 460 times higher, on copper 12 times higher, on chromium 9 times higher, and on nickel 5 times higher. The Permit reflects a conclusion utterly discordant with the CWA, that discharging hazardous waste to a waterway so dangerous that the public needs to be fenced out of the area for its own good constitutes full interim compliance with the CWA, a statute which declares its purpose to be "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a).

The State Board should question how this compliance schedule approach can seriously be called regulatory oversight-- Regional Board staff using public funds to draft purely superfluous effluent limits set equal to the highest level of pollutant discharge a polluter could ever reasonably be expected to have for the next twenty years. This is analogous to paying the CHP to figure out how fast the fastest automobile in the state is likely to drive, so as to know what speed limit to set--and then leave in place for a generation.

The Regional Boards' justification for compliance schedules is shielding dischargers from enforcement actions brought by the State or Regional Boards, the U.S. Environmental Protection Agency or citizens for failure to meet WQBELs when it might be difficult for dischargers to comply with their WQBELs. *E.g.*, San Diego Regional Board, Resolution No. R9-2005-0238 (findings 7, 8). This, however, is re-writing of the CWA to take away the enforcement tools for ensuring WQS attainment that Congress expressly provided for.

Congress expressly required that WQBELs must be set at a level necessary to ensure WQS attainment regardless of economic and technological restraints. *Ackels v. EPA*, 7 F.3d 862, 865-66 (9th Cir. 1993); *Defenders of Wildlife v. Browner* 191 F.3d 1159, 1163 (9th Cir. 1999); *Oklahoma v. EPA*, 908 F.2d 595, 597-98 (10th Cir. 1990); *rev'd on other grounds Arkansas v. Oklahoma*, 503 US 91 (1992); accord *In the Matter of: NPDES for City of Fayetteville*, 1988 EPA App. LEXIS 35, \*13; 2 E.A.D. 594 (June 28, 1988) ("The meaning of [the CWA] is plain and straightforward. It requires unequivocal compliance with applicable water quality standards, and does not make any exceptions for cost or technological feasibility. . . ."). Congress further

mandated a strict deadline, long since passed, for achieving WQBELs designed to assure attainment with WQS: July 1, 1977. 33 U.S.C. § 1311(b)(1)(C). Congress provided that EPA and citizens can seek court enforcement of WQBELs whenever dischargers are violating them. 33 U.S.C. §§ 1319(d), 1365. Moreover, for states to have authority to run their own NPDES programs, they must have authority to enforce against violations of NPDES permit limits. 33 U.S.C. § 1342(b)(7).

The effect of compliance schedules is to eliminate, for years on end, State and Regional Board, EPA, and citizen suit enforcement as a mechanism to advance attainment of WQS. Instead, Regional Board permit writers become the sole arbiters of what measures should be required of dischargers to advance WQS attainment. Regional Boards appear to argue that this is appropriate because enforcement against dischargers who cannot immediately comply with WQBELs is somehow unduly punitive and draconian. This assumption is at odds with the realities of judicial and administrative enforcement, however. Courts and agencies *always* have flexibility to tailor the enforcement remedy required of a discharger to match the realities of what dischargers can realistically be expected to do, and this is how enforcement actions are consistently resolved. *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 317-318 (1982) (“Congress did not anticipate that all discharges would be immediately enjoined. . . . Rather, enforcement actions typically result, by consent or otherwise, in a remedial order setting out a detailed schedule of compliance designed to cure the identified violation of the Act.”). Thus, the issue at the heart of the compliance schedule debate is not whether dischargers should be given reasonable leeway to comply with standards over a feasible time schedule. The issue is whether Regional Board permitting staff should be the sole determiners of what is a feasible time schedule for complying with WQS, cutting State and Regional Board enforcement staff, EPA enforcement staff, and citizen suit enforcers out of the process. The Citizen Groups strongly disagree with this proposition.

## ***II. Compliance Schedule Authorization Provisions Are Widely Scattered and Inconsistent.***

Compliance schedule authorization provisions are scattered across the EPA-promulgated California Toxics Rule (“CTR”), SIP and the Basin Plans for Regions 1, 2, 4, 5, 8, and 9 (The Basin Plans for Regions 3, 6 and 7 lack compliance schedule authorization provisions). The provisions that do exist were adopted at different times and are inconsistent, as reflected in the attached Table 1. Among other things, they establish different criteria for granting compliance schedules. Regional Board 2, for example, allows compliance schedules on the vague basis “where effluent limitations are not currently being met and where justified.” Regional Board 1, by contrast, allows “technical or economic infeasibility” to be the basis for compliance schedules. Regional Board 4 establishes that compliance schedules may be granted when it is “infeasible . . . to comply immediately,” but is vague on the extent to which infeasibility is a function of technical obstacles versus financial constraints.

The various Basin Plans also vary in the length of allowable compliance schedules. Regional Board 2, for example, allows compliance schedules to last up to ten years in certain

circumstances and only four years in others whereas the EPA-approved portions of Regional Board 1's Basin Plan limits compliance schedules to five years and Regional Board 4 limits compliance schedules to ten years from the date of adoption of a new WQS or five years from issuance of a given NPDES permit, whichever is shorter. Meanwhile, the CTR provides that compliance schedules for CTR-based effluent limitations cannot be issued after May 18, 2005. 40 C.F.R. § 131.38(e)(8). The EPA-approved portions of the SIP provide that compliance schedules can give no longer than March 2, 2010 to comply with WQBELs, though portions of the SIP that EPA has expressly declined to approve allow compliance schedules to last until March 2, 2020. SIP § 2.1.

Indeed, the San Diego Regional Board Basin Plan Amendment would allow schedules of compliance that exceed those allowed under the CTR. The CTR restricts compliance schedules to five years, or the life of the permit. 40 C.F.R. § 131.38(e)(6),(7) The proposed Amendment is overbroad and merely refers to the State Board interpretation of the CTR provisions under the SIP. (Resolution No. R9-2005-0238, Basin Plan Amendment Attachment A p. 2-3) However, the SIP does not apply to storm water, and therefore gives no guidance for application of compliance schedules for CTR criteria under those permits. The San Diego Amendment is ambiguous at best. This language could easily be misconstrued or abused in fashioning compliance schedule provisions in individual permits. Clearly, this is not a model for compliance schedules statewide.

The State Board should hold off further piecemeal approval of compliance schedule provisions until it studies the impact of compliance schedule provisions in existence and considers one consistent harmonizing policy that replaces the current inconsistent patchwork of compliance schedule provisions.

### ***III. The State and Regional Boards Lack Information About the Cumulative Impact of Compliance Schedules.***

The Citizen Groups sent a series of Public Records Act (PRA) requests to the Regional Boards in attempt to gauge the extent of Regional Board issuance of compliance schedules to date. As became clear from the response to our PRA requests, none of the Regional Boards are comprehensively tracking how many compliance schedules they have issued nor assessing in any fashion the cumulative impact of such compliance schedules on the waters in their jurisdiction. Response to our PRA requests has been grudging, disorganized, and incomplete, but we have done our best to develop our own partial database from these responses of how many compliance schedules have been issued in California to date—which we have attached as Table 2. Sadly and ironically, our Table 2 citizen database represents *the only information* that any of the Regional Boards or the State Board has on the cumulative issuance of compliance schedules statewide.

Our database indicates that the Regional Boards are making very widespread use of the compliance schedule device, at least signaling that the adverse impact on environmental protection potentially posed by compliance schedules is substantial. Specifically, Regional

Boards have issued at least 371 compliance schedules in recent years in at least 92 separate NPDES permits. As the attached Table 2 represents, *the majority* of the dischargers issued compliance schedules discharge to impaired waters listed on the State's CWA section 303(d) list. Thus, many compliance schedules are legalizing discharges which are adding to the pollution woes of waters that the State officially recognizes to be impaired. Moreover, issuing compliance schedules allowing pollutant loading at levels expected to cause or contribute to WQS exceedance, is a recipe for *adding more waters to the list of impaired waters and thus the State's burden to develop TMDLs*. The State's current CWA section 303(d) list identifies 1,883 instances in which state waters are excessively polluted by given pollutants and thus targeted for TMDL development. Recent trends would indicate that this list is likely to continue to grow. To date, the Regional Boards have adopted no more than about 40 TMDLs. At current pace of TMDL adoption, it will take the State and Regional Boards numerous decades to adopt TMDLs for all pollutants impairing all state waters even if more waters are not added to the State's 303(d) list. Accordingly, the State Board should be very hesitant to continue an approach likely to add to the number of impaired waters in California.

The State Board should not continue to allow the piecemeal expansion of compliance schedule authorization provisions without assessing the cumulative impact that compliance schedules are having in legalizing the discharge of pollutants expected to cause or contribute to the impairment of the state's waters. The State Board should convene a series of public workshops to gather basic information on the number of compliance schedules being issued and to what waters. These workshops should further focus on how these compliance schedules are affecting progress toward cleaning up impaired waters on the CWA section 303(d) list and how they might affect the need for TMDLs.

#### ***IV. The EPA Star-Kist Caribe Decision Does Not Mandate Compliance Schedules.***

The San Diego Regional Board, in its powerpoint presentation to the State Board urging adoption of its Basin Plan amendment, states that amending the Basin Plan to add compliance schedule provisions "is necessary because of the 1990 *Star-Kist Caribe* decision." The Regional Board misreads this EPA administrative decision. This decision did not mandate that states adopt compliance schedule provisions authorizing the delay of WQBELs. Instead, the decision only held that if a state's WQS lack provisions authorizing delaying the effective date of WQBELs, then WQBELs must be immediately effective. *In the Matter of: Star-Kist Caribe, Inc.*, 2 E.A.D. 758, 1989 EPA App. LEXIS 38 (U.S. EPA Environmental Appeals Board March 8, 1989). While *Star-Kist Caribe* is routinely referred to as authorizing compliance schedule provisions that delay the effective date of WQBELs, it is overlooked that the decision at most merely implied that this is the case and included no analysis or legal support justifying this assumption. A careful legal review of the CWA would show this assumption to be wrong.

CWA section 301(b)(1)(c) unambiguously and without qualification provides that "there shall be achieved . . . not later than July 1, 1977, any more stringent limitation . . . necessary to



meet water quality standards." There is no text in the CWA suggesting that this deadline can be extended to reflect "compliance schedules."

The CWA requires that states establish "schedules of compliance" as part of their "continuing planning process" required by CWA section 303(e), 33 U.S.C. § 1313(e). Under this continuing planning process, states are supposed to adopt and, as needed, update their plans for attaining WQS. 33 U.S.C. § 1313(e). "Schedules of compliance" adopted pursuant to this "continuing planning process" are supposed to do no more than mandate specific measures that will lead to eventual attainment of WQS. Notably, CWA section 303(e)(3)(F) mandates "schedules of compliance, for revised or new water quality standards." CWA section 502(17) further defines a "schedule of compliance" as:

a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

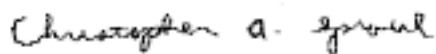
33 U.S.C. § 1362(17). Together, these clauses are unambiguous that "a schedule of compliance" consists only of enforceable requirements for specific remedial measures that lead to compliance with effluent limitations such as WQBELs and ultimately, WQS. Finally, CWA section 303(c)(2)(A) makes it clear that WQS include only: (1) designated uses of water, and (2) the water quality criteria needed to attain such uses. Thus, there is no legal basis for including in WQS provisions authorizing compliance schedules that delay the effective date of WQBELs.

## ***V. Conclusion***

The State Board should schedule a series of workshops in Northern California (preferably the San Francisco Bay Area) and Southern California (in Los Angeles and San Diego) to gather basic information about the extent to which the Regional Boards are granting compliance schedules and the water quality impacts such compliance schedules are having. The workshops should also be used to hear from stakeholders their views and analysis on what constitutes sound and consistent statewide policy on compliance schedules. The State Board should defer any further approvals of compliance schedule authorization provisions until these workshops are held and the conclusions from these workshops are presented to the Board.

Thank you for consideration of our comments.

Sincerely,



Christopher Sproul

On behalf of:



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**Table 1: Existing Compliance Schedule Provisions in Regional Board Basin Plans**

Table 1	North Coast (1)	SF Bay (2)	Los Angeles (4)	Central Valley (5)	Santa Ana (8)	San Diego (9)
<b>Date adopted by Regional Board<sup>1</sup></b>	March 24, 2004	June 21, 1995	January 30, 2003	May 26, 1995	May 19, 2000	November 9, 2005
<b>When compliance schedules are allowed</b>	“technical or economic infeasibility”	“where effluent limitations are not currently being met and where justified.”	“infeasible . . . to comply immediately” and Infeasible means “that discharger compliance cannot be accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.”	“infeasible to achieve immediate compliance with water quality objectives”	“infeasible . . . to comply immediately”	“achieving immediate compliance ... is infeasible” meaning that the “discharger compliance cannot be achieved in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.”
<b>Standards to be delayed</b>	“NPDES permit limitations based on new, revised or newly interpreted water quality criteria”	“newly adopted objectives or standards as NPDES permit conditions for particular substances”	“effluent limitation” to implement “a new, revised or newly interpreted water quality standard.” Where ‘Newly interpreted water quality standard’ means “a narrative water quality objective that, when interpreted by the Regional Board during NPDES permit development (using appropriate scientific information and consistent with state and federal law) to determine the numeric effluent limits necessary to implement the narrative objective, results in a numeric effluent limitation more stringent than the prior NPDES permit issued to the discharger.”		“an effluent limitation” to implement “new, revised or newly interpreted water quality objectives... or ... water quality criteria”	“new or more stringent WQBEL or receiving water limitations” based on “new, revised or newly interpreted water quality objectives”
<b>Time of delay</b>	“shortest feasible	“as soon as possible,	“shortest possible period of	“shortest practicable	“shortest practicable	“shortest practicable

<sup>1</sup> See Regional Board 1 Resolution R1-2004-001; Regional Board 2 Resolution No. 95-076; Regional Board 4 Resolution No. 2003-001; Regional Board 5 Resolution No. 95-142; Regional Board 8 Resolution No. 00-27, Regional Board 9 Resolution R9- 2005-0238.

Table 1	<b>North Coast (1)</b>	<b>SF Bay (2)</b>	<b>Los Angeles (4)</b>	<b>Central Valley (5)</b>	<b>Santa Ana (8)</b>	<b>San Diego (9)</b>
<b>allowed</b>	<p>period of time” determined by regional board in public hearing, not to exceed five years. In language not approved by EPA there may be a five year extension if progress is being made, not to exceed ten years.</p>	<p>but in no event later than [four years for source controls and ten years for any additional measures to comply with effluent limitations] after new objectives or standards take effect.”</p>	<p>time” no later than five years from date of permit or ten years from date of standard adoption (whichever is the shorter period of time)</p>	<p>time” not “more than ten years from the date of adoption of the objective or criteria) for compliance with water quality objectives, criteria or effluent limitations based on the objectives or criteria”</p>	<p>period of time, not to exceed ten years after the adoption or interpretation of applicable objectives or criteria.”</p>	<p>time” not to exceed five years, except a five year extension is allowed where discharger shows “satisfactory progress towards achieving compliance.”</p>

Table 1	North Coast (1)	SF Bay (2)	Los Angeles (4)	Central Valley (5)	Santa Ana (8)	San Diego (9)
<b>Information required before compliance schedules can be granted</b>	<ol style="list-style-type: none"> <li>1. Written request and demo that technical and economic infeasibility is met</li> <li>2. Results of efforts to quantify pollutant levels in discharge and source controls</li> <li>3. Current source control efforts</li> <li>4. Proposed schedule for source control</li> <li>5. Show what level is currently achievable and that current schedule is as short as possible</li> <li>6. Data on current performance levels</li> </ol>	<ol style="list-style-type: none"> <li>1. Results of effort to quantify pollutant levels in discharge and source of pollutants</li> <li>2. Show current source control efforts underway</li> <li>3. Schedule for additional source control or pollution prevention</li> <li>4. Demonstration that proposed schedule short as possible</li> </ol>	<ol style="list-style-type: none"> <li>1. Results of effort to quantify pollutant levels in discharge and source of pollutants</li> <li>2. Show current source control efforts underway</li> <li>3. Proposed schedule for additional source control measures or waste treatment</li> <li>4. Highest discharge quality that can be attained until final compliance</li> <li>5. Demonstration that proposed schedule is as short as possible</li> </ol>	Not specified in plan language	<ol style="list-style-type: none"> <li>1. Results of effort to quantify pollutant levels in discharge and source of pollutants</li> <li>2. Show current source control efforts underway</li> <li>3. Proposed schedule for additional source control measures and waste treatment</li> <li>4. Discharge quality reasonably be attained until final compliance is achieved</li> <li>5. Demonstration that proposed schedule is as short as possible, looking at economic, tech &amp; others factors</li> </ol>	<ol style="list-style-type: none"> <li>1. Results of efforts to quantify current levels in discharge and source of pollutants</li> <li>2. Show current source control and other programs underway and proposed schedule for compliance</li> <li>3. Evidence that interim standard is highest that can be achieved until final compliance</li> <li>4. Demonstration that time schedule is as short as practicable looking at economic, tech &amp; other factors</li> </ol>
<b>Interim actions required</b>	Yes, a time schedule for completing specific actions	Not clear but asks for a schedule for additional source	Yes, a time schedule for completing specific actions (including interim effluent	Yes, a time schedule for completing specific actions that	Yes, a time schedule for completing specific	Yes, a time schedule for completing or achieving specific actions

Table 1	<b>North Coast (1)</b>	<b>SF Bay (2)</b>	<b>Los Angeles (4)</b>	<b>Central Valley (5)</b>	<b>Santa Ana (8)</b>	<b>San Diego (9)</b>
	(including interim effluent limits) that demonstrate reasonable progress toward attaining the limits	control measures and waste treatment	limits) that demonstrate reasonable progress toward attainment of the limits and standards.	demonstrate reasonable progress toward the attainment of the objectives or criteria	actions that demonstrate reasonable progress toward attainment of the limit and thereby the objective or criterion	(including interim effluent limits) that demonstrate reasonable progress toward attainment of WQBEL or receiving water limitations and thereby attainment of water quality objectives.

**TABLE 2 – To Date Review of Permits Statewide that contain Compliance Schedules [CS] or Interim Limits for WQBELs**

<b>Regional Board</b>	<b>Name</b>	<b>NPDES Permit</b>	<b># Pollutants granted CS or interim limits</b>	<b>Pollutants granted compliance schedules or interim limits</b>	<b>Pollutants granted CS or interim AND on receiving water 303(d) list</b>
2	Fairfield-Suisun Sewer District	CA0038024	6	copper, cyanide, dichlorobromomethane, bis (2-ethhtylhexyl) phthalate, 4,4'-DDE, and dieldrin	dioxin, dieldrin
2	Mirant Delta, Pittsburg Power Plant	CA0004880	4	copper, selenium, mercury, Dioxin	mercury, dioxin
2	South San Francisco and San Bruno WQCP	CA0038130	5	copper, mercury, selenium, cyanide, and tributyltin	mercury, Selenium
2	Tesoro Corp.	CA0004961	4	selenium, cyanide, dioxin TEQ, and PCBs	selenium, dioxin TEQ, and PCBs
2	Benecia	CA0038091	3	copper, mercury, selenium	mercury, Se
2	Burlingame	CA0037788	4	copper, mercury, alpha-THC and dieldrin	mercury, PCBs
2	C&H Sugar	CA0005240	3	copper, mercury, nickel	mercury
2	Central Contra Costa	CA0037648	6	cyanide, mercury, 2,3,7,8-TCDD; Equivalent, acrylonitrile, bis (2-ethylhexyl)phthalate, and tributyltin	mercury, dioxin and furan
2	Central Marin Sanitation Agency	CA0038628	1	mercury	mercury
2	CHEVRON, Richmond Refinery	CA0005134	5	mercury, selenium, cyanide, PCBs, and dioxin-tea	mercury, selenium, PCBs, dioxin
2	City of American Canyon	CA0038768	4	copper, nickel, zinc, and cyanide	mercury and nickel
2	City of Millbrae WPCP	CA0037532	6	copper, mercury, TCDD equivalents, PCBs, tetrachlorethylenedioxins and furans	copper, PCBs, mercury, dioxin compounds.
2	City of Palo Alto	CA0037834	8	cyanide, chlorodibromomethane, mercury, Benzo(b)fluoranthene, indeno(1,2,3-cd)pyrene, 4,4'-DDE, dieldrin, and heptachlor epoxide	mercury
2	City of Petaluma	CA0037810	2	copper, cyanide	
2	City of San Mateo	CA0037541	1	Bis (2-Ethylhexyl) Phthalate, tributyltin, cyanide, copper	
2	Conoco Phillips	CA0005053	7	copper, cyanide, 4,4-DDE, dieldrin, dioxin (TCDD Equivalents), mercury, and selenium	mercury, selenium, dioxins, dieldrin
2	Dow Chemical	CA0004910	3	copper, mercury, nickel	mercury, d/s receiving copper, nickel
2	EBMUD Wet Weather Bypass	CA0038440	6	copper, lead, mercury, nickel, Ag, zinc	mercury

<b>Regional Board</b>	<b>Name</b>	<b>NPDES Permit</b>	<b># Pollutants granted CS or interim limits</b>	<b>Pollutants granted compliance schedules or interim limits</b>	<b>Pollutants granted CS or interim AND on receiving water 303(d) list</b>
2	EBMUD WWTP	CA0037702	4	copper, cyanide, mercury, dioxin	mercury, dioxin
2	EBRPD, Hayward Shore Marsh	CA0038636	4	copper, mercury, nickel, and cyanide	mercury, nickel
2	Fairfield-Suisun Sewer District	CA0038024	7	copper, cyanide, dichlorobromomethane, bis (2-ethylhexyl) phthalate, 4,4'-DDE, dieldrin, mercury	mercury
2	General Chemical	CA0004979	5	copper, lead, mercury, nickel, and selenium	copper, mercury, nickel, selenium
2	Kobe Precision	CA0030112	1	copper	
2	Marin County	CA0037753	4	copper, mercury, Hydrogen cyanide, selenium	copper, mercury, selenium
2	Marin County #5, Paradise Cove	CA0037427	1	cyanide	
2	Mirant Delta, LLC, Potrero Power Plant	CA0005657	2	copper and mercury	
2	Napa WWTP	CA0037575	6	copper, mercury, se, cyanide, TCDD, tributyltin	
2	Pinole	CA 0037796	2	mercury, cyanide	mercury
2	Sewerage Agency of S. Marin	CA003771	4	copper, selenium, mercury, cyanide	mercury
2	SF, Southeast Plant	CA0037664	3	copper, mercury, and dioxin TEQ	mercury, dioxin
2	SFIA Industrial WWTP	CA0028070	4	copper, mercury, beta-THC, cyanide	mercury
2	SFIA Water Quality Control Plant	CA0038318	6	copper, mercury, Bis (2-ethylhexyl) Phthalate, 4,4-DDD, alpha-THC, and beta-THC	mercury
2	Shell Oil Co., Martinez Refinery	CA0005789	7	lead, mercury, nickel, selenium, zinc, dibenzo(a,h)anthracene, and dioxin	mercury, nickel, selenium, dioxin
2	Sonoma Valley County Sanitation District	CA0037800	5	copper, mercury, cyanide, zinc, and tributyltin	copper, mercury
2	South Bayside System Authority, WWTF	CA0038369	3	dioxins and furans, copper, mercury,	dioxins and furans
2	USS-POSCO Industries Pittsburg Plant	CA0005002	2	cyanide, chlorodibromomethane, and Dichlorobromomethane	
2	Valero, Benicia Refinery	CA0005550	6	selenium, mercury, nickel, copper, lead, and dioxins and furans	copper, mercury, nickel, selenium, dioxins, and furans
2	West County Agency	CA0038539	5	copper, mercury, selenium, dioxin, cyanide	mercury, dioxin
3	City of San Luis Obispo WWTP	CA0049224	2	chlorodibromomethane, dichlorodibromomethane	

Regional Board	Name	NPDES Permit	# Pollutants granted CS or interim limits	Pollutants granted compliance schedules or interim limits	Pollutants granted CS or interim AND on receiving water 303(d) list
3	El Paso WWTP	CA0047953	5	copper, selenium, cyanide, Bromoform, chlorodibromomethane, dichlorodibromomethane	chlorides, sodium
3	Heritage Ranch WWTP	CA0048941	3	copper, mercury, 4,4-DDD	
4	Camarillo Sanitary District	CA0053597	7	chloride, total nitrite nitrogen, cyanide, 4-4-DDE, 4-4-DDD, Recolor	d/s receiving chloride, nitrogen
4	Camarosa Water District	CA0059501	5	copper, cyanide, chlorodibromomethane, dichlorobromomethane and lindane	copper
4	Fillmore WWTP	CA0059021	9	BOD5, TSS, chloride, nH3, copper, se, mercury, bis(2-ethylhexyl)phthalate, and mass	ammonia, TSS, chloride
4	HillCanyon WWTP	CA0056294	2	total nitrogen, ammonia	ammonia, d/s receiving nitrogen
4	Long Beach Water Reclamation	CA0054119	7	total nitrogen, ammonia, mercury, cyanide, Dibenzo(a,h)anthracene, Indeno(1,2,3-cd)pyrene, lindane (gamma-THC)	ammonia
4	Los Coyotes Water Reclamation Plant	CA0054011	6	total nitrogen, ammonia, mercury, nickel, cyanide, and Bis(2-ethylhexyl) Phthalate for duration	ammonia
4	Ojai Valley Wastewater Treatment Plant	CA0053961	4	thallium, bis(2-ethylhexyl)phthalat, lindane, cyanide	
4	Pomona Water Reclamation Plant	CA0053619	5	lead, mercury, cyanide, Acrylonitrile, and Bis(2-ethylhexyl)phthalate.	
4	San Jose Creek Water Reclamation Plant	CA0053911	15	copper, lead, mercury, selenium, cyanide, n-nitrosodimethylamine, 44-DDT, and 44-DDE - for san Jose East WRP; mercury, selenium, cyanide, tetrachloroethylene, Benzo(a)pyrene, Benzo(k)fluoranthene, Dibenzo(a,h)anthracene, and Indeno(1,2,3-cd)pyrene - for san Jose West. Also --> ammonia nitrogen and tetrachloroethylene (non car	
4	Saugus Water Reclamation Plant	CA0054313	1	chloride	
4	Simi Valley Water Quality Control Plant	CA0055221	5	nitrogen cmpds, nH3, selenium, cyanide and 4,4-DDE	selenium d/s listed Ammonia, nitrate and nitrite
4	Terminal Island Treatment Plant	CA0053856	7	ammonia, copper, lead, mercury, silver, cyanide, and Dieldrin	ammonia, copper, lead, mercury, and dieldrin



Regional Board	Name	NPDES Permit	# Pollutants granted CS or interim limits	Pollutants granted compliance schedules or interim limits	Pollutants granted CS or interim AND on receiving water 303(d) list
4	Valencia Water Reclamation Plant	CA0054216	5	chloride, nitrate, mercury, cyanide, Acrylonitrile	chloride, Nitrate/Nitrite,
4	Ventura Water Reclamation Facility	CA0053651	8	copper, lead, mercury, nickel, selenium, zinc, cyanide, aldrin	pesticides
4	Whittier Narrows Water Reclamation Plant	CA0053716	6	mercury, cyanide, Acrylonitrile + ammonia nitrogen, nitrite nitrogen, nitrite plus nitrate as nitrogen, and chronic toxicity	ammonia
5.2	Cal Dept Forestry	CA0083798	4	copper, lead, silver, zinc	
5.2	Planada WWTP	CA0078950	4	cyanide, carbon tetrachloride, chlorodibromomethane, Dichlorobromo-methane	
5.3	Bella Vista Water District	CA0080799	2	copper, Dichlorobromomethane	
5.3	CA Dept. of F&G-Mt. Shasta Hatchery	CA0004596	1	copper	
5.3	CA Dept. of F&G-Thermalito Annex Hatchery	CA0082350	1	copper	
5.3	Chester PUD	CA0077747	1	copper	
5.3	City of Willows	CA0078034	1	nitrate	
5.3	Dicalite Minerals Corp	CA0082058	2	zinc, Bis-2-Ethylhexylphthalate	
5.3	Quincy CSD	CA0077844	3	copper, lead, silver	
5.3	Shasta CSA #17 - Cottonwood WWTP	CA0081507	2	copper, zinc	
5.3	Sierra Pacific Industries-Anderson Div.	CA0082066	4	copper, cadmium, lead, zinc	
5.3	Sierra Pacific Industries-Shasta Lake Div.	CA0081400	3	lead, Bis-2-ethylhexylphthalate	
5.3	South Feather Water and Power	CA 0083143	1	copper	
5.3	Union Pacific RR Company		1	lead	
6	Amedee Geothermal Power Plant	CA0103055	3	arsenic	arsenic
6	Wineagle Geothermal Power Plant	CA0103063	3	arsenic	arsenic
7	Calipatra Wastewater Treatment Plant, Calipatria CA	CA0105015	4	copper, Free cyanide, selenium, thallium	
7	Centinela Wastewater State Prison Wastewater Treatment Plant	CA7000001	7	4,4' DDT, selenium, copper, thallium, cyanide, cadmium, chromium IV+E56	
7	City of Brawley Westwater Treatment Plant	CA0104523	5	copper, Free cyanide, lead, selenium, zinc	
7	City of Imperial Water Pollution Control Plant	CA0104400	2	selenium, thallium	
7	Coachella Sanitary District Wastewater Treatment Plant, Coachella, CA	CA0104493	7	copper, zinc, Free cyanide, Bis(2-Ethylhexyl)Phthalate, 4,4'-DDE, 4,4'-DDT, Heptachlor Epoxide	

Regional Board	Name	NPDES Permit	# Pollutants granted CS or interim limits	Pollutants granted compliance schedules or interim limits	Pollutants granted CS or interim AND on receiving water 303(d) list
7	El Centro Generating Station	CA0104248	6	copper, cyanide, nickel, selenium, thallium, zinc	
7	Grass Carp Hatchery	CA0000074	3	copper, lead, selenium	selenium
7	Heber Geothermal Company, Heber	CA0104965	6	chromium, copper, mercury, nickel, thallium, zinc	
7	Imperial Valley College Wastewater Treatment Plant	CA0104299	2	copper, selenium	selenium
7	Mid-Valley Water Reclamation Plant, Thermal, CA	CA0104973	2	copper, cyanide	
7	Municipal Wastewater Treatment Plant for City of Holtville, CA	CA0104361	9	copper, selenium, Benzo(a)anthracene, Benzo(a)pyrene, Benzo(b)fluoranthene, Benzo(k)fluoranthene, Bis(2-ethylhexyl)phthalate, chrysene, Ammonia	
7	Municipal Wastewater Treatment Plant for Heber, CA	CA0104370	4	copper, lead, zinc, Free cyanide	
7	Municipal Wastewater Treatment Plant	CA0104426	3	nickel, selenium, copper	Selenium
7	Municipal Wastewater Treatment Plant Wastewater Collection and Disposal Systems	CA7000009	2	copper, mercury	
7	Naval Air Facility El Centro Wastewater Treatment Plant, El Centro, CA	CA0104906	1	mercury	
7	Niland Wastewater Treatment Plant	CA0104451	3	copper, selenium, thallium	selenium
7	Second Imperial Geothermal, Heber	CA7000003	5	copper, lead, nickel, thallium, zinc	selenium
8	Carbon Canyon Water Reclamation Facility	CA8000073	1	free cyanide	
8	Regional Recycling Plant No.1 & No.4	CA0105279	1	cyanide	
8	San Diego Creek, Newport Bay Watershed (Staff Report)	CAG998002	1	selenium	selenium

**92 Permits reviewed to date, TOTAL number Compliance Schedules or Interim Limits granted statewide (per pollutant tally) = 371**