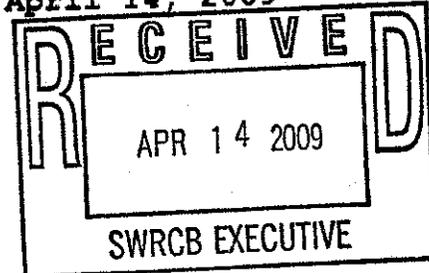


3152 Shad Court
Simi Valley, CA 93063
April 14, 2009



Ms. Jeanine Townsend
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Re: "Comment Letter - Draft Annual Enforcement Report".

Dear Ms. Townsend:

I have read the aforementioned report and these are my comments for the State Water Board to consider.

FY 2007-2008 DRAFT ANNUAL ENFORCEMENT REPORT

- #1 - The document was a well written and organized labor. My compliments to the compilers.
- #2 - Page 1, first paragraph, second sentence, "Water Board's" is confusing since this document states "California Water Boards". If this means only the State Water Board, then add "State". If this means the State and Regional Water Boards, then change "Water Board's" to "Water Boards".
- #3 - It has been over 30 years since the federal Clean Water Act was passed, and yet in California there are still some major "challenges" (Page 1, second paragraph; Executive Summary) facing the Water Boards ability to bring enforcement actions on all violators of State and Federal water quality regulations because the existing enforcement tools are inadequate or are not applied, or there are not enough trained personnel, or resources to do the job the Water Boards are entrusted with, or the independent differences between Water Boards infringe successful implementation and follow through. But the worst of all of these challenges, for which there is no excuse in the world, is the lack of coordination between the Water Boards and the law enforcement community.

#4 - "Integrity": Is a catch word in Water Boards' documents because everything possible has been done to not keep the public's trust. While financial integrity seems to be making headway, the truth of the matter is that, most especially with regards to the Los Angeles Regional Water Quality Control Board, staff competency has taken a slide backwards. I was appalled reading that "dedicated staff" was problematic. While, to date, I have not seen this through reading the various tentative NPDES permits' documents that I have addressed for the past 2 1/2 years, I have noticed an inexcusable decline in the document format "template". I have spent countless hours cross-referencing documents. Unfair to do the job (correcting errors and format) that Board staff is paid to do. These hours took away from cross-referencing proposed requirements in order to make sure that the public isn't being tricked. Thus, I would not be writing several letters, and lengthy ones at that. I would also be submitting my comments, even though they have been forwarded by the deadline (except for the currently proposed Ventura Countywide Amendment to the MS4 NPDES Permit), sooner.

#5 - "Consistency": Even though the law is on the books, the Regional Water Boards are extremely inconsistent. Consistency does not mean that they have to give up their independence, but they must be consistent with the: 1. State Water Board's "Mission Statement", 2. "Ex Parte Communications" information on the Boards' Agendas, and 3. "Agenda", "Meetings", and "Calendar" Website postings format (they must also be timely). The information on Boards' "Watersheds" is difficult to find expeditiously.

Example: All Regional Water Boards 2009 information was posted, but the LARWQCB's 2009 Web posting varies--no archived Agendas, and no February meeting information (appoint new Chair and Vice Chair). The posting of Board "Minutes" varies. Revised Agendas are no longer "Revised" even though posted tentative permits information states the item was cancelled, or rescheduled. Thus, the public is left in the dark.

- #6 - With all of the modern technological advantages, and experienced staff (young, and seasoned), there is no excuse whatsoever for continuous "database" problems. The "limited number of program 'modules'" "being constructed" to "tailor the information being collected to the 'vocabulary' of the program" that will result "in a more logical approach to data entry and retrieval" sounds great (bottom of Page 1, and top of Page 2), but will this suffer since the alarm bell was sounded in the May 15, 2007 Workforce Plan Framework on the number of staff that were contemplated to leave their State jobs?
- #7 - Page 2, second paragraph reads "An outcome of the broader Water Board initiative to make CIWQS functional to meet internal and external data management needs is to provide useful data on compliance and enforcement activities to monitor, manage and improve its enforcement activities". Since my computer is frozen up this morning, I could not research once again the State Water Board's Website for the document titled something along the lines of the Growth Assessment Council (involved participation by staff from the SWRCB, the ("Natural" currently) Resources Agency, and other State entities. A public input section in the Council's Agendas was sorely missing. I did not concur with the Council's recommendation for ultimate authority for it when public comments were being requested. Making the data useful to researchers and the public is a wonderful idea, but not at the expense of losing sight of what the State and Regional Water Boards staffs duties and responsibilities are, and what the programs and regulations are supposed to accomplish in the short and long terms. In the same way as various State and Federal government agencies Websites have a section for "Kids", the State and Regional Water Boards' Websites can have the same thing to educate the public, and still keep intact the data management process for staff members to function successfully. Once again "Water Board" is confusing. If it refers to only the State Water Board, then add "State", and if it refers to all of the Water Boards then change to "Water Boards".

- #8 - "Comprehension": It is stated on Page 3, first paragraph, under Introduction and Purpose of This Report, that "This Annual Enforcement Report provides a comprehensive summary of enforcement activities and performance measures for the Water Board's core regulatory programs.1", and under footnote 1 it is stated This Annual Enforcement Report addresses... a greater number of core regulatory programs than the 13385 report". "Comprehension" is sorely missing in The Boeing Company's Santa Susana Field Laboratory (SSFL) site Groups RCRA RFIs. If I did not cross-reference various and numerous documents I would not know that the bottom line is not to protect the environment--learned about this from the consultant's employee's Conference presentation around 2002 in order to get around waste discharge regulations. I find this lack of comprehension in City of Simi Valley, County of Ventura, and Ventura County Watershed Protection District reports. Anytime that a reader has to take considerable time to research statements in order to get a better picture, then there is a major problem with the information provided in the given document. The Department of Water Resources' draft 2009 Water Plan Update is yet another example of an excellent comprehensive labor, but there are too many format template problems that take away from the textual content. The lack of comprehension is what keeps the general public from getting involved in the public participation process even when workshops are scheduled up and down the State to educate Californians on crucial and critical matters. Once again "Water Board's" is problematic. If it refers to the State Water Board, add "State". If it refers to all Water Boards "core...", add "'".
- #9 - "Five core regulatory programs": These are mentioned on Page 1, first paragraph, second sentence, yet they are listed on Pages 4 and 5. List them on Page 1, then still locate their descriptions on Pages 4 and 5.
- #10 - Lack of staff training, resources, and authority are not the major problems to the Water Boards' enforcement tools and activities. It was the

lack of prioritizing the "nine performance measures" described in the *Baseline Enforcement Report* listed on Page 2 in order to succeed in enforcing the Clean Water Act standards, most especially CIWQS reporting for: 1. Environmental Benefits "(as a result of an enforcement action)", 2. Self-Monitoring Report Evaluation, and 3. Recidivism.

Measure Description

1. Estimated pounds of pollutants reduced/removed through cleanup, and wetlands/stream/beach/creek/river miles protected/restored (acres, etc.),
2. Number of self-monitoring reports due, received and reviewed and percentage of reports reviewed, and
3. Number and percentage of facilities returning to non-compliance for the same violation(s) addressed through an enforcement action.

- #11 - Page 4, change the statement, after the bullet points, to read "Summary of the five core regulatory programs".
- #12 - Page 6, top of page, the sentence is missing a "." after "Enforcement Report)".
- #13 - Page 6, first bullet point, it is stated "... list of all enforcement actions undertaken in that regional and the disposition of each action..." Change "regional" to "region", or change to "regional area".
- #14 - Page 6, bottom of page, the paragraph's first sentence reads "In Addition, the California Environmental Protection Agency(Cal/EPA)..." Change "Addition" to "addition".
- #15 - Page 6, bottom of page, the paragraph was an eye opener with regards to the problems that have plagued the Water Boards' enforcement tools and activities--"... (Cal/EPA) produces the Consolidated Environmental Law Enforcement

Report reflecting annual activities. This effort meets Cal/EPA's statutory obligation under Government Code section 12812.2 to report on the status of the Cal/EPA enforcement program to ensure consistent, effective and coordinated environmental enforcement in the State of California". So, the buck stops at the top, not with the budget, not with the employees attitudes, lack of training, etceteras, due to possible indifference, incompetence, or a deliberate attempt to foot drag. To think that I became entangled in an "Ex Parte Communications" situation on with my submitted public comments on the proposed General NPDES Permit for Potable Water Systems in the Los Angeles and Ventura Counties by addressing my 3 letters the Board Chairwoman because staff kept suppressing my evidentiary materials due to this is unnerving. This greatly impacted the number of staff responses on my 3 letters, thus an egregious violation of the public participation process.

- #16 - Page 70, Recommendation 1 (Create Procedural Consistency in Regional Water Board Enforcement Proceedings), Status, have the "procedural templates for hearings and other matters" been put into use already ("April 2009")? How will the public know that this has been done? Will a notice to this effect be posted on the Regional Water Boards' Websites?
- #17 - Page 71, Recommendation 2 (Prioritize Enforcement Actions to Address the Most Serious Threats to Water Quality), the "Status" first and second sentences read "...to establish regular enforcement prioritization meetings. The frequency of these meeting varies by region..." Second sentence "meeting" should read "meetings".
- #18 - Page 71, Recommendation 3 (Enhance Inspection and Enforcement Training), Status, is the Water Boards' Training Academy's January 2009 training needs assessment the same item that was posted on the State Water Board's Website "coming soon" training manual around February 2007?

- #19 - Page 72, Recommendation 4 (Increased Field Presence of Water Board Staff), the "Status" section is missing.
- #20 - Page 72, Recommendation 5 (Evaluate Opportunities for Citizen Enforcement of the Water Code), Status, will the meeting between the OE and the stakeholders on the "need for citizen suit enforcement of Water Code" be open to the public? Will there be public workshops on the issue? Will information on this subject be posted on the State and Regional Water Boards' Websites? Will court fees be waived for "citizen suit activities"? Will the State and Regional Water Boards' support citizen suits activities?
- #21 - Page 72, Recommendation 6 (Evaluate Establishing Minimum Penalties for Water Code Violations), I found this item alarming if I understood it correctly. The statement "Adopting a minimum penalty regimen for other water quality violations would provide consistency in assessing monetary administrative and civil liabilities" conflicts with, and contradicts the policy on Water Quality Enforcement. The penalties that are collected for NPDES permit violations that go toward Regional Water Boards' water quality restoration and other projects will be impacted! Will the Water Boards hold public workshops? Will there be a public review and comment period and Water Boards' hearings on "the concept"?
- #22 - Page 72, Recommendation 7 (Create a Dedicated Enforcement Staff and Budget), recovering "the reasonable costs of enforcement as an assessment of liability (in administrative or civil liability matters) in addition to any monetary civil liability imposed in the enforcement proceeding" contradicts, and conflicts with Recommendation 6!
- #23 - Page 73, top of page, Status, the second sentence reads "All Regional Boards have now a dedicated enforcement unit". Change the sentence to read "All Regional Boards now have a dedicated enforcement unit". Why has there not been any "action" on the "time keeping issues"?

- #24 - Page 73, Recommendation 8 (Increase the Use of the Attorney General's Office, District Attorneys, and City Attorneys in Enforcement Actions), why do the Water Boards need to "evaluate whether additional legislative changes would help" the effort to "better coordinate and communicate with" the law "enforcement partners" mentioned here? Does this involve other "partners" not mentioned? This being the case Recommendation 6 is contradictory, and conflicting! The Los Angeles Regional Water Quality Control Board's Attorney General Pilot Project mentioned in the 2008 Water Boards' Accomplishments Report was mind boggling, and flabbergasting. I felt that the Attorney General's office was being blamed.
- #25 - Page 73, Recommendation 9 (Reduce the Backlog of Enforcement Cases by Targeting MMP-Related Violations for Enforcement Priority), the third sentence states "The Water Boards should initiate action to significantly and measurably reduce the backlog in 2008". Is "2008" supposed to read "2009" since this report was released in 2009, and it is stated in the "Status" that "The initiative is ongoing, however, as of December 31, 2008, more than 70% of the backlog is being addressed statewide"?
- #26 - Page 74, Recommendation 10 (Evaluate Updating the Statutory Penalty Limits to Address Inflation), it was mind boggling that "The 2008 oil spill in the San Francisco Bay from the M/V Cosco Busan illustrated that the authorized penalty amounts for the illegal discharge of oil and petroleum products into the state's waterways have not been updated since 1984." Minimum penalties are being contemplated under Recommendation 6, yet this statement and the statement "Cost of living indices suggest that the penalties should be adjusted by at least 100% to account for inflation" clearly show that the minimum penalties being contemplated conflict with, and are contradictory to achieving water quality.
- #27 - Page 74, Recommendation 11 (Develop and Implement Plans to Compel Participation in Key Water Board

Regulatory Programs), Status, the statement "A notice letter was prepared and sent regarding new requirements for facilities regulated under AB 259 (Nurdles) for use by the State Water Board Division of Water Quality (DWQ)" is confusing. Was the letter sent to the State Water Board's Division of Water Quality (DWQ), or the regulated community?

- #28 - Page 74, Recommendation 12 (Develop a Uniform Tracking and Reporting Mechanism for Illegal Discharges That Do Not Fall Within One of the Current Core Regulatory Programs), doesn't the lack of a "consistent mechanism for recording violations and tracking enforcement response to violations" mean that the Water Boards are in violation of the State law on "Consistency", and thus the Status statements "Recommendations are on hold after a stakeholders meeting in July 2008. Stakeholders seek resolution by expanding regulatory programs to address these types of misconduct"?
- #29 - Page 75, Recommendation 13 (Encourage Flexibility in the Allocation of Resources to Target Priority Needs), Status, it is unclear if the "resources" mentioned in the statements are financial ones. Were financial resources also "redeployed to support this" type of "initiative statewide"?
- #30 - A solution to the problem of illicit dischargers, lack of man-power and financial resources is for the Water Boards to approve a moratorium on new regulated entities as a worst case scenario instead of approving "minimum penalties", and not following through with enforcement management to truly succeed in restoring water quality in waterbodies and watersheds throughout California!

Sincerely,



Mrs. Teresa Jordan