

SSS WDRs: AUDITS, COMPLIANCE AND ENFORCEMENT



James Fischer, P.E.
State Water Board/Office of Enforcement
Special Investigations Unit
Sacramento, California

October 2015

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ENFORCEMENT PROGRAM REVIEW

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AMENDED MONITORING AND REPORTING COMPLIANCE

PART 1 ENFORCEMENT PROGRAM REVIEW

DISCHARGES REGULATED

- Actual and Threatened Discharges to Surface Waters or Land
 - ✓ Waste Treatment Plants and Collection Systems
 - ✓ Industrial Sites
 - ✓ Agriculture and Food Processing
 - ✓ Storm Water Discharges
- Underground Storage Tanks
- Landfills
- Mining Waste
- Other discharges



WHY ENFORCEMENT?

- 
- *Cannot protect water quality without a strong foundation of enforceable requirements and a reliable process for determining compliance*

STATEWIDE AUTHORITY

Regional Boards (RBs)

- Investigations and enforcement for individual SSOs
- Conducts SSO compliance audits

State Board

- Implementation, enforcement and revision of Sanitary Sewer Order (SS Order), No. 2006-0003-DWQ
- Assist RBs with SSO investigations/enforcement cases
- Conducts SSO compliance audits
- Develops SSO training materials for RBs



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

STATE WATER RESOURCES CONTROL BOARD

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APPROPRIATE ENFORCEMENT

- Timely
- Similar for similar violations
- Informs the violator
- Results in return to compliance
- May require remediation of damage
- Serves as deterrent
- Progressive enforcement
- Harmonizes with goals and objectives of adopted Water Quality Enforcement Policy

STATEWIDE ENFORCEMENT POLICY

STATE WATER RESOURCES CONTROL BOARD

WATER QUALITY ENFORCEMENT POLICY

Effective May 20, 2010

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

http://www.waterboards.ca.gov/water_issues/programs/enforcement/policy.shtml

TYPES OF ENFORCEMENT

INFORMAL Enforcement:

- Verbal warning
- Staff Enforcement Letter
- Notice of Violation (NOV)

TYPES OF ENFORCEMENT

FORMAL Enforcement:

- Notice to Comply
- **Technical Reports and Investigations**
(see Water Code sections 13267 and 13383)
- Time Schedule Order (TSO)
(see Water Code section 13300 and 13308)
- Cleanup and Abatement Order (CAO)
- Cease and Desist Order (CDO)
- **Administrative Civil Liability (ACL/penalty)**
- Referral to District Attorney or Attorney General

TYPES OF ENFORCEMENT

Actions that direct future compliance:

- Notice to Comply (NTC)
- 13267 Letters, CAOs, CDOs
- Time Schedule Orders - 13300, 13308
- Revision of WDRs

Actions that address past violations:

- Rescission of WDRs
- ACL (penalty)
- Referral to District Attorney or Attorney General

SETTLEMENTS/APPEALS

- Settlement of ACLs
 - ✓ Complaint Issued - Board Hearing Within 90 days
 - ✓ Reduction of the Amount
 - ✓ Supplemental Environmental Projects
 - ✓ Compliance Projects
- Regional board actions may be petitioned to the state board within 30 days of issuance
- Appeal to the courts

ENFORCEMENT REFERRALS TO D.A.

- Appropriate for most serious violations
- Allows for greater Penalties (2 to 10 times higher)
- AG may also seek injunctive relief (e.g. restraining order, preliminary injunction, or permanent injunction)
- Injunctive relief may be appropriate in emergency situations, or where a discharger has ignored enforcement orders or does not have the ability to pay a large penalty

COORDINATION WITH U.S. ATTORNEY

- District Attorneys, City Attorneys, USEPA, or U.S. Attorneys may seek civil or criminal penalties under their own authority for some of the same violations a Water Board pursues (a request by a Water Board is not required)
- A Water Board can request prosecution or investigation and should cooperate with a prosecutor, but the criminal action is not controlled by or the responsibility of the Water Board
- Not an official referral

ECONOMIC BENEFIT

Any savings or monetary gain derived from the acts or failure to act that resulted in the violation

Why consider Economic Benefit?:

- ✓ Polluters should not profit from environmental violations
- ✓ Level playing field - the cost of doing business
- ✓ May be statutorily required
- ✓ ACL should always substantially exceed the Economic Benefit. Otherwise, dischargers should just wait until you catch them.

COMMON ENFORCEMENT ITEMS

- ✓ Notice of Violation (NOV)
- ✓ Orders Directing Actions:
 - ✓ Requirements to provide information pursuant to Water Code section 13267
 - ✓ Time Schedule Order (TSO)
 - ✓ Cleanup and Abatement Order (CAO)
 - ✓ Cease and Desist Order (CDO)
- ✓ Administrative Civil Liability (ACL)

PART 1 - REVIEW

- ✓ Why Enforcement
- ✓ Regional/State Authority
- ✓ Common Enforcement Items (NOV, ACL, etc)

QUESTIONS?

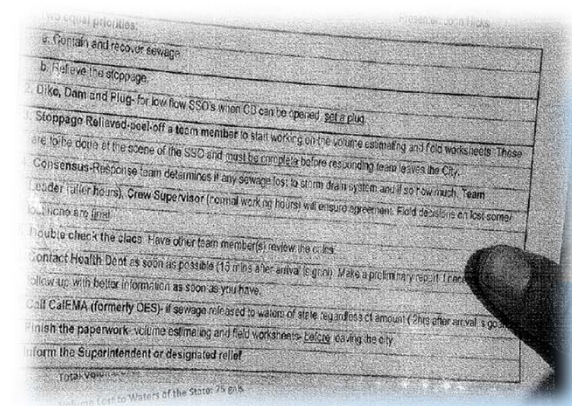
PART 2

COLLECTION SYSTEM INSPECTION FINDINGS



UNREPORTED SSO VIOLATIONS

- Glendale city inspection revealed failure to report/certify an SSO (isolated incident)
- Notice of Violation (NOV) issued (1/25/2013) and post-inspection meeting held with regional board and legal staff
- No enforcement action pursued at this time

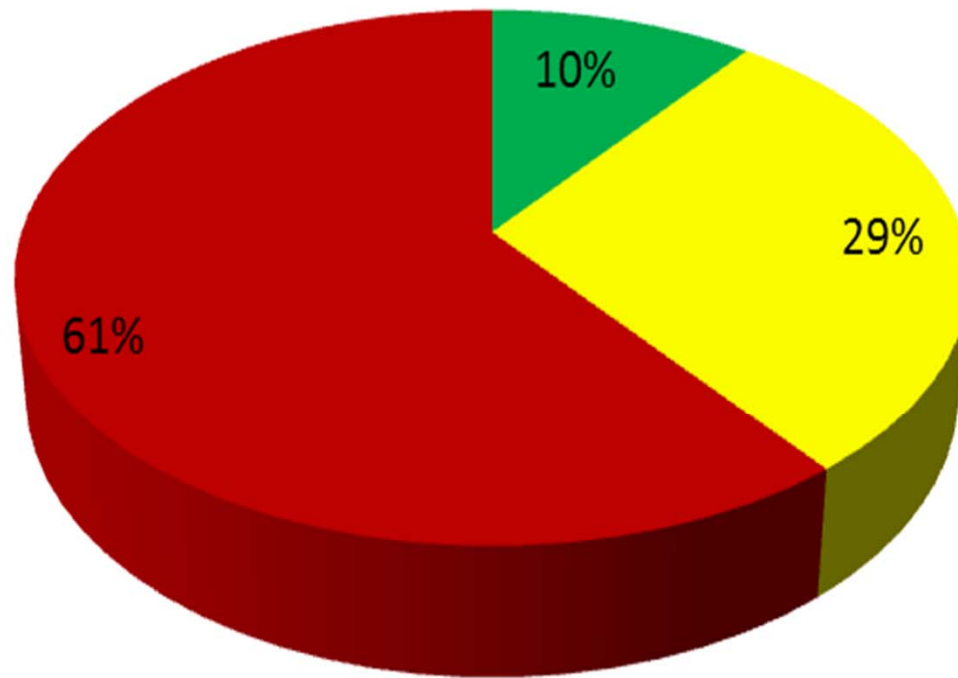


UNREPORTED SSO VIOLATIONS (continued)

- Additional statewide audits underway to further evaluate enrollee SSO reporting accuracy
- Violations discovered are documented and included in Inspection Report/NOV
- Number/severity of unreported SSOs discovered drive enforcement decisions

UNRELIABLE REPORTING VIOLATIONS

Collection System Reporting and Record Keeping Compliance Statistics



- A Few reporting violations; No volume concerns, No unreported SSOs
- C Numerous reporting violations; Some volume concerns; No unreported SSOs
- F Numerous reporting violations; Volume concerns; Known unreported SSOs

UNRELIABLE REPORTING VIOLATIONS (continued)

- Oakland City (R2-2011-0014)
- “Failure to report SSOs within 2 hours” (6 occasions)
- “Failure to timely submit reports” (7 occasions)
- “City violated Water Code section 13268 by:
 - failing to accurately report start times and SSO volumes in six SSO reports”
 - failing to accurately report the flow rate and volume in one SSO”
- \$155,000 penalty adopted by regional board

http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2009/R2-2009-0087.pdf

SSMP IMPLEMENTATION VIOLATIONS

- Failure to develop Capital Improvement Program (CIP) and Rehabilitation schedules and identify specific funding sources [see SSS WDRs, subsection D.13(iv)(c)]
- Failure to develop System Evaluation and Capacity Assurance Program (SECAP) and identify specific funding sources [see SSS WDRs, subsection D.13(viii)(c) and D.13(viii)(d)]
- Inadequate backup systems such as alarms, generators, etc [(see SSS WDRs, subsection 6.iii)]

PART 2 - REVIEW

- ✓ Unreported SSOs
- ✓ Unreliable reporting
- ✓ SSMP Implementation Violations

QUESTIONS?

PART 3 ENFORCEMENT EXAMPLES

LARGE SSO ENFORCEMENT

- Water Boards policy: “initiate formal enforcement against all SSO incidents where there is a discharge of sewage that reaches surface waters in excess of 50,000 gallons”
- Since January 2007, a total of 73 SSOs greater than 50,000 gallons reaching surface waters have been reported statewide



SSO ENFORCEMENT CASE EXAMPLES

CITY OF ESCONDIDO (Region 9)

- Failure of main plant influent sewage pump station due to problem with uninterruptable power supply (UPS)
- Alarm system failed
- 180,700 gallon SSO
- Sewage discharged from headworks to Escondido Creek and Pacific Ocean
- \$ ~134K penalty (settlement)



SSO ENFORCEMENT CASE (Escondido)

- Days of violation: 1
- Potential for Harm: 7
- Deviation from Requirement: major
- High Volume Discharges: yes
- Total per gallon factor: 0.31
- Statutory/adjusted max/ gallon: \$2.00



SSO ENFORCEMENT CASE (Escondido)

- Culpability: 1.2
- Cleanup and Cooperation: 0.8
- History of Violations: 1.1
- Multiple Violations: yes
- Multiple Day Violations: na
- FINAL LIABILITY (settlement)= \$133, 927



SSO ENFORCEMENT CASE EXAMPLES

CAMBRIA COMMUNITY SERVICES DISTRICT R3-2014-0008

- Large overflow (256,600 gallons) during wet weather from main plant influent sewage pump station
- Two additional SSOs (81,200 gallons and 34,125 gallons)
- \$ 226,826 penalty (final settlement)



SSO ENFORCEMENT CASE EXAMPLES

SANTA CRUZ COUNTY SANITATION DISTRICT (Region 3)

- Large overflow (89,032 gallons) during wet weather episode at main sewage pump station
- Two separate SSO events from mainline failures (22,339 gallons and 23,040 gallons)
- \$ 276,212 penalty (final settlement)

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R3-2014-0038
IN THE MATTER OF
SANTA CRUZ COUNTY SANITATION DISTRICT
SANTA CRUZ COUNTY

SSO ENFORCEMENT CASE EXAMPLES

ROSS VALLEY SANITARY DISTRICT (Region 2)

- Numerous large SSOs to surface waters
- Numerous SSMP implementation violations including:
 - Inadequate cleaning and inspection program
 - Failure to implement funds and sources for master plan/resources
 - Failed to timely implement adequate emergency backup plan
 - Failed to share findings with prosecution team

- \$1,539,100 penalty (ACL R2-2012-0055 for 2008-2011 SSOs)

http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2012/R2-2012-0055.pdf

- Board adoption of Cease and Desist Order (CDO) R2-2013-0020

http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2013/R2-2013-0020.pdf

PART 3 - REVIEW

- ✓ Enforcement case examples
- ✓ Enforcement Policy steps and outcomes

QUESTIONS?

PART 4 ADDITIONAL ENFORCEMENT (SSS WDRs)

REFERRALS TO ATTORNEY GENERAL

- Alhambra City, Compton, and San Gabriel City
- SSS WDRs violation examples:
 - failure to fully report all SSOs to CIWQS
 - failure to accurately report SSO volumes
 - failure to comply with 2-hour notification
 - failure to certify SSOs in CIWQS
 - failure to maintain/retain SSO records
 - failure to implement SSMP
- One released (Alhambra, two pending)

REFERRALS TO ATTORNEY GENERAL

- Alhambra City (Region 4)
 - Two facility inspections
 - Initial: Dec 2011
 - Re-Inspection: Dec 2012

REFERRALS TO ATTORNEY GENERAL

- **Alhambra City (Region 4)**
 - Failure to comply with SSS WDRs (Order 2006-0003-DWQ)
 - Extensive Settlement Negotiations
 - Proposed Consent Judgment/Order reached and posted on Los Angeles Regional Board Enforcement page:

http://www.waterboards.ca.gov/losangeles/water_issues/programs/enforcement/

NON-PARTICIPATING ENROLLEES

- 16 cases referred to Office of Enforcement for failure to comply with SSS WDRs and Monitoring and Reporting Program:
 - Failure to report SSOs/certify “No SSOs”
 - Failure to complete and certify SSMP
 - Failure to complete online collection system questionnaire
- Many enrollees voluntarily returned to compliance
- Two cases have resulted in penalty actions so far:

City of Maywood

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2013/wqo2013_0009exec.pdf

Chino Airport

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/2014/chino_order.pdf

SSMP ENFORCEMENT

- ~15 cases referred to Office of Enforcement
 - Failure to adopt SSMP approved by local governing board
 - Failure to implement SSMP
- Individual cases in progress

PART 4 - REVIEW

- ✓ Referrals to Attorney General
- ✓ Non-participating Enrollees
- ✓ SSMP Enforcement

QUESTIONS?

PART 5

AMENDED MONITORING AND REPORTING PROGRAM (MRP) COMPLIANCE REMINDERS

AMENDED MRP COMPLIANCE REMINDERS

- **SSMP Availability (subsection iv)**
 - SSMP (and referenced documents in SSMP) to be posted on internet.
 - Enrollees must include LINK in collection system questionnaire where documents are posted.
 - Alternatives to posting online:
 - Upload SSMP and critical documents to CIWQS or send SSMP and critical documents in electronic format to SWRCB
 - **Many enrollees currently in violation**
- **Monitoring plan for large SSOs (subsection iii)**
- **Record keeping requirements (section E)**

QUESTIONS

JAMES FISCHER, P.E.

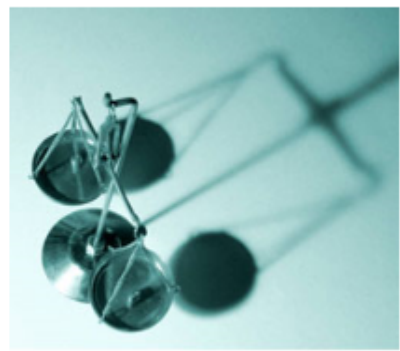
State Water Board
Office of Enforcement
Special Investigations Unit

916-341-5548

jfisher@waterboards.ca.gov

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The Office of Enforcement was created in mid-2006 to emphasize enforcement as a key component of the Water Boards' water quality regulatory functions and statutory responsibilities.

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