

## SSS WDRs: AUDITS, COMPLIANCE AND ENFORCEMENT



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PART 1      ENFORCEMENT PROGRAM REVIEW

PART 2      COLLECTION SYSTEM AUDIT FINDINGS

PART 3      ENFORCEMENT CASE EXAMPLES

PART 4      ADDITIONAL ENFORCEMENT (SSS WDRs)

PART 5      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](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?

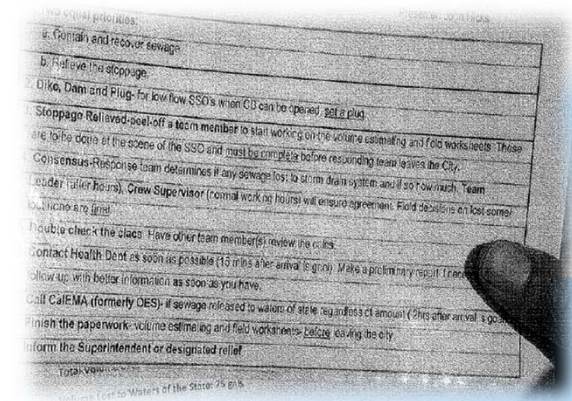
# PART 2

## 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

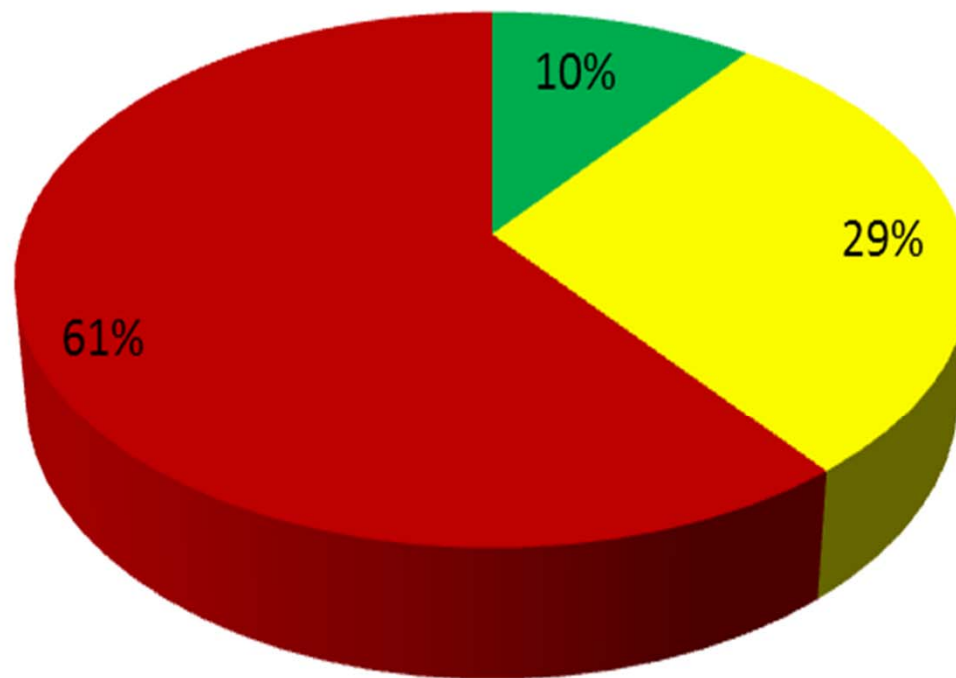


# UNREPORTED SSO VIOLATIONS (continued)

- 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](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](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](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/](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](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](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.**

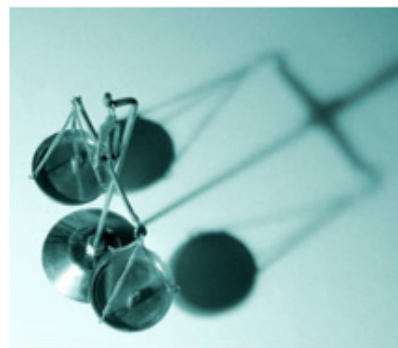
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[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/](http://www.waterboards.ca.gov/water_issues/programs/enforcement/)

## OFFICE OF ENFORCEMENT



### About Us

### Accomplishments

### Policies

### News

### Orders/Actions

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.

- Meet OE Director: Cris Carrigan
- Responsibilities
- Organizational Chart - Select "Office of Enforcement"
- Contact Us - (916) 341-5272
- Report Fraud