

**Cal/EPA Office of the Secretary**  
**Cal/EPA Environmental Enforcement Report**  
**2009**

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## THE OFFICE OF THE SECRETARY

The Office of the Secretary heads the California Environmental Protection Agency and is responsible for overseeing and coordinating the activities of the Air Resources Board, the Department of Pesticide Regulation, the Department of Toxic Substances Control, the Office of Environmental Health Hazards Assessment and the State Water Resources Control Board and Regional Boards. In 2009, this responsibility included the oversight of the California Integrated Waste Management Board.

The Secretary does not direct policies and decisions of the Boards, Departments and Office on a day-to-day basis. As an officer of the Governor's Cabinet, functions performed within the Office of the Secretary include budget review, review of legislation, information management coordination and strategic planning.

The Legislature has also given the Office of the Secretary several specific programmatic responsibilities, including:

1. Coordination of the State's climate change activities
2. Border Program
3. Brownfields
4. Children's Environmental Health
5. Enforcement
6. Environmental Justice
7. Quality Improvement
8. Unified Hazardous Materials Program and Emergency Response

This Office of the Secretary Report contains information on the statutory enforcement activities for which it is responsible. Readers should know that most of the activities of the Office of the Secretary involve assisting and coordinating with other agencies. In almost all cases, agencies other than the Office are the primary program enforcement authorities. The Office of the Secretary does directly oversee the local agency program that enforces certain hazardous material and hazardous waste laws. The report on that program is located in the Unified Hazardous Materials Program section of this report.

### I. EXECUTIVE SUMMARY

Government Code section 12812.2(a) establishes the duties of the California Environmental Protection Agency (Cal/EPA) Deputy Secretary for Law Enforcement and Counsel to include the development of a program to ensure that Cal/EPA, its entities, and local government take consistent, effective, and coordinated enforcement actions. The program is required to include training to ensure consistent, effective, and coordinated enforcement. This section of the report provides an update on actions taken during 2009 to implement this section.

### **A) Major Program Highlights**

The following highlight some of the more important enforcement improvement activities that were accomplished by the Office of the Secretary in 2009:

- Prepared system enhancements to the Single Complaint Tracking System
- Completed first draft of Best Management Practices Guidance for Permit Writers
- Produced an annual report of statewide environmental enforcement for 2008.
- Provided enforcement training through a number of collaborative efforts.
- Provided \$305,262 in grants for enforcement efforts (such as the Environmental Circuit Prosecutor Project).
- Partnered with other enforcement groups to award training scholarships to enable regulators, investigators and prosecutors to attend enforcement training.
- Led the Cal/EPA Enforcement Training Team in the development and delivery of enforcement training (such as the Cal/EPA Basic Inspector Academy).
- Provided legal review and leadership to ensure the effective enforcement of the California Global Warming Solutions Act of 2006 (AB 32 (2006); Health and Safety Code sections 38500, et seq.) and related statutes and regulations.

### **B) What The Reported Data Tells Us**

The Office of the Secretary in its enforcement role does not implement a regulatory program; rather its statutory duties are to oversee and assure environmental protection regulatory programs are implemented in a coordinated and consistent manner. Data standardization, collection and analysis are critical elements of these mandated responsibilities. While progress has been made, it's clear that many data gaps still exist. In some cases, the requirement to report necessary data does not exist. In many cases, the technical resources and funding needed to build and maintain the necessary databases are severely limited. Compounding problems include the lack of common data definitions among the many diverse elements of our decentralized regulatory system and the ability to efficiently share data across program lines. These and related issues create "blind spots" that impact our ability to assess program effectiveness, identify trends and report environmental progress.

Cal/EPA's initial enforcement assessment in 2004 identified many of these issues that are being addressed by two Enforcement Initiative Committees: the Data Standardization and the Environmental Data Exchange Committees. Reports on their progress and on-going work are included below.

### **C) How The Agency Will Use This Information**

As the available data from the Boards, Departments, and local and regional agency partners improves, Cal/EPA will be able to use that data to both measure progress toward implementing its statutory mandates and for planning and targeting purposes.

## II. THE ENFORCEMENT PROGRAM IN THE OFFICE OF THE SECRETARY

### A) Overview

In 2009, the staff available to work on the enforcement program within the Office of the Secretary consisted of:

- The Deputy Secretary for Law Enforcement and Counsel (whose duties include both the statutory duties regarding enforcement and the duties of General Counsel for the Agency).
- The Assistant General Counsel for Enforcement.
- The Special Counsel to the Secretary.
- The Assistant Secretary for the Unified Hazardous Materials Program and Regulatory Affairs, supported by seven staff who work on the Unified Hazardous Materials Program.
- Support staff (Associate Government Program Analyst, Staff Services Analyst, and an Executive Assistant) whose duties included enforcement and support of the general legal office function.

As described in this report, the enforcement program relies heavily on staff from the Boards and Departments to perform most of the tasks needed to improve enforcement.

### B) Description of Program Components

Cal/EPA's program to ensure consistent, effective, and coordinated enforcement actions has several components which are discussed below:

- Targeted program and infrastructure improvement tasked to Enforcement Initiative Teams/Committees.
- Enforcement training for regulators, investigators and prosecutors.
- The Environmental Circuit Prosecutor Project to address the need for prosecutorial resources in rural counties.
- Work to secure funding for enforcement and training through conventional and creative funding mechanisms, such as the Penal Code section 14300 account.
- Support for local environmental enforcement task forces to facilitate communication between regulators and prosecutors.
- Enforcement policy review and coordination of state and regional efforts to ensure enforceability of the Global Warming Solutions Act of 2006 (AB 32); Health and Safety Code sections 38500, et seq.).

#### 1) The Cal/EPA Enforcement Initiative

In October 2004, Cal/EPA directed the first steps to implement Cal/EPA's "Enforcement Initiative." Teams (later renamed Committees) were established to carry out specific enforcement improvement tasks. Details about the Committees are available on the Internet at <http://www.calepa.ca.gov/Enforcement/Initiative/default.htm>.

## **Enforcement Steering Committee**

### Mission

The mission of the Cal/EPA Enforcement Steering Committee is to plan and manage the continuing improvement and coordination of California's state, regional and local environmental enforcement programs so we can effectively and efficiently meet the state's environmental goals.

### Accomplishments

This Steering Committee consists of the Chiefs of Enforcement for the Air Resources Board, the California Integrated Waste Management Board, the Department of Pesticide Regulation, the Department of Toxic Substances Control, and the State Water Resources Control Board. The Committee is chaired by the Cal/EPA Deputy Secretary of Law Enforcement and Counsel. The committee meets monthly.

In 2009, the Steering Committee worked on various issues related to better coordination of enforcement activity. Two joint meetings were held with US EPA regional enforcement managers to discuss issues involving state and federal jurisdiction. At one of the meetings, enforcement managers from US EPA headquarters including Assistant Administrator Cynthia Giles also participated.

### Calendar Year 2010 Objectives

This Committee will continue to work to see that Cal/EPA standing enforcement steering committees complete the work the steering committees have started and will continue to work to improve coordination between the Cal/EPA Boards, Department and Offices regulatory programs as well as the US EPA and our local partners.

## **Enforcement Program Operational Plan (EPOP) Steering Committee**

### Mission

The mission of this Committee is to complete development and implementation of a model drafted by the EPOP Team for use by each BDO and our local regulatory partners. This model will define the common and necessary elements of a fully functioning environmental enforcement program and serves as the Cal/EPA blueprint for advancing our enforcement programs and prioritizing our enforcement resources.

As a result of mandated furloughs and related budget and travel restrictions, this Committee has been put on hold until additional resources may be obtained to continue the work.

## **Data Standards Steering Committee**

### Mission

The mission of the Data Standards Steering Committee (DSSC) is to establish and maintain a process for environmental programs to provide public access to environmental data maintained by those programs. This committee will coordinate the continuing development of data standards across Cal/EPA's programs and establish a data dictionary management process that will standardize environmental data in California. The committee will work with Cal/EPA programs and local government partners to implement the standards and process.

A significant change in direction was approved when the DSSC proposed and adopted a Data Registry/Data Exchange Template concept to support future development of a Master Data Dictionary for environmental protection programs. The Data Registry will contain all the data elements of the major environmental data systems currently maintained by Cal/EPA programs.

There continued to be a need for increased participation by Cal/EPA program staff in this work in 2009. Increased participation was needed to maintain momentum toward the development of a common Environmental Data Dictionary.

#### Accomplishments

- The DSSC work plan for 2009 was reviewed and updated.
- The DSSC completed the review of all previous deliverables and made any necessary changes required by the new Data Registry/Data Exchange Template concept. Although the development of the Data Registry was started, it was suspended due to the transfer of the California Integrated Waste Management Board into the California Natural Resources Agency. The California Integrated Waste Management Board is now known as the Department of Resources, Recycling and Recovery (CalRecycle) and their website is located at <http://www.calrecycle.ca.gov/>.

#### Calendar Year 2010 Objectives

- Review and update the work plan for 2010.
- Continue the development of the Data Registry objectives.
- Finalize process for mapping EDE data elements that will be exchanged between programs.

### **Environmental Data Exchange Steering Committee**

#### Mission

The mission of the Environmental Data Exchange (EDE) project is to create a web tool with which eighteen enforcement and other related databases from five Cal/EPA Boards, Departments, and Offices can be viewed via the Internet. The project will implement data standards and business rules across Cal/EPA programs' facilities databases to ensure consistency of data and ease of cross-organizational exchanges. Further, the Environmental Data Exchange project is to determine a method of identifying regulated facilities and sites and exchange information between Cal/EPA programs in order to promote cross-media and multi-agency enforcement capabilities.

#### Accomplishments

- A U.S. EPA Grant remains in place to contract for a computer programmer to develop a portion of the computer code needed for the Environmental Data Exchange project.

#### Calendar Year 2010 Objectives

- Adopt protocol for computer data exchange as determined by the Data Standards Steering Committee.
- Secure a contract with a computer programmer to develop a portion of the computer code needed for the Environmental Data Exchange project.
- Secure from Cal/EPA programs' management the approval for their program and Information Technology (IT) staff to develop the Environmental Data Exchange project.

- Cal/EPA program staff will identify differential security levels, and the information associated with each of those levels.
- Cal/EPA program IT staff will determine resources needed to implement differential security and any other remaining IT tasks needed to complete the project and begin to complete those tasks, with an expected completion of EDE in late 2011.

See Data Standards Steering Committee above for the reason of the delay in project objectives.

### **Enforcement Performance Measures Team**

#### Mission

Develop enforcement program performance measures that relate program activities of Cal/EPA BDOs, and our local and regional partners to progress in achievement of program strategic plans. Develop a comprehensive annual report of environmental enforcement in all BDO programs and those implemented by our regional and local partners to meet the requirement of Government Code Section 12812.2.

#### Accomplishments

- In coordination with Cal/EPA BDOs prepared the 2008 Consolidated Environmental Enforcement Law Report with Performance Measures focus.

#### Calendar Year 2010 Objectives

- Improve Performance Measures focus in subsequent reports to enable the public to gain a better perspective of how the programs within and resources expended by Cal/EPA and its BDOs impact the environment and their health.

### **Enforceable Permits Steering Committee**

The Enforceable Permits Steering Committee was established in 2007, building on the work of the prior Enforceable Permits team, which investigated concerns that the enforceability of permits issued by Cal/EPA boards and departments needed to be improved. A staff survey and report, conducted by the prior team in 2006, developed recommendations for addressing the problems reported in the survey. One of the fundamental recommendations from the team was that a cross-program steering committee be established, and that this committee includes representatives from both enforcement and permitting programs. Thus, the members of the committee consist of representatives from both enforcement and permitting programs from the Air Resources Board, Department of Pesticide Regulation, Department of Toxic Substances Control, the Water Boards, and had also included the Integrated Waste Management Board.

#### Mission

Plan and manage the continuing improvement and coordination of the enforcement and permitting programs of Cal/EPA boards and departments, to ensure that permits are clear, consistent and enforceable.

#### Accomplishments

During 2009, committee members developed a first draft of a Best Management Practices document. This document consolidated issues from the first team survey, discussed the issue, and

developed recommended best management practices for the Cal/EPA boards and departments to consider and to use when evaluating the efficacy of the permitting and enforcement programs interface.

#### Calendar Year 2010 Objectives

- Distribute the Best Management Practices document to Cal/EPA boards and departments for review
- Submit a final Best Management Practices document to Cal/EPA for consideration
- Assist Cal/EPA in distributing the Best Management Practices document as a guidance document for use by boards and departments, and in requesting boards and departments evaluate their permitting and enforcement programs relative to the recommended best management practices.

### **Enforcement Training Steering Committee**

#### Mission

The Enforcement Training Steering Committee is to provide training and outreach to field personnel of state and local regulatory agencies, investigators and attorneys across all programs to ensure consistent, effective and coordinated enforcement.

#### Accomplishments

As a result of mandated furloughs and related budget and travel restrictions, this Committee has been put on hold until additional resources may be obtained to continue the work.

The Environmental Enforcement Training Team was established in late 2007 consisting of one staff member from each BDO, except the Office of Environmental Health Hazard Assessment (OEHHA), to administer a centralized Enforcement Training Program formalized in Cal/EPA Policy Memorandum (ENF-07-08) issued November 1, 2007. Their goal is to provide training and outreach to field personnel of state and local level regulatory agencies across all Cal/EPA programs to ensure consistent, effective and coordinated enforcement. As of January 2009, Cal/EPA Assistant Counsel for Enforcement Lisa Brown chairs this team.

Although the directive indicated team members were to work on enforcement training full time, the amount of time spent on this assignment varied, as this requirement was modified to assist the Boards and Departments in meeting other workload and program requirements. Team transition remained an issue in 2009 with gaps between the dates of when trainers leave the assignment and a new trainer is assigned. All the team members have restrictions on the amount of time and travel they can dedicate to team activities.

Team training includes the Cal/EPA Basic Inspector Academy (BIA) which provides baseline knowledge of environmental enforcement and works in conjunction with existing program specific training to prepare state and local environmental regulatory staff to conduct efficient and professional inspections. Training includes overviews of all environmental regulatory programs. Students learn to recognize possible violations in other programs and to work with their partner agencies. Six hours of this training are available online at [www.calepa.ca.gov/enforcement](http://www.calepa.ca.gov/enforcement). The complete Academy course includes both the online module and 4 days of classroom training. The classroom sessions include a simulated inspection, report writing, case review by prosecutors and mock testimony. In 2009, the Academy was offered in Sacramento (2 sessions); Orange, Fresno,

Los Angeles, and Redding and Riverside; 215 people completed the course. The Enforcement Training Team provided support staff, outreach and speakers for the BIA.

The Cal/EPA Environmental Enforcement Symposium for 2009 was canceled due to cost concerns.

Other training accomplishments are listed in the Training Team's annual report.

#### Calendar Year 2010 Objectives

Nine sessions of the Basic Inspector Academy have been planned for 2010; the highest number of session since the program's inception. In addition, review and updating of course materials is planned.

Delivery of three "One Day" enforcement training classes.

Continue efforts in outreach and coordination of training classes for various task forces.

Continued work with the Environmental Enforcement Training Coordination Forum to improve coordination of training efforts.

#### **Single Complaint Tracking Steering Committee**

##### Mission

The Single Complaint Tracking Steering Committee was established to create a Cal/EPA-wide, single complaint tracking system to receive, track, and respond to environmental complaints reported to Cal/EPA Boards, Departments and Offices. This project resulted in a web-based system that provides a consistent, single point of contact for the public via Internet access through the various Cal/EPA web pages. The primary point of contact is an online complaint form that is used to collect information about environmental complaints and/or violations. The system was designed as a tool used to relay complaint information directly to the appropriate Cal/EPA Boards, Departments and Offices for action, coordination with local and regional government agencies, and further follow-up.

Citizen complaints are a critical source of information about potential non-compliance with environmental laws. Program managers have found that citizen complaints are usually made to a specific Cal/EPA Board, Department and Office, but may also have cross-media environmental impacts. In order to provide adequate response to environmental complaints, a coordinated approach is needed to address the possible cross-media responses as well as assure that complaints are investigated and prosecuted properly. The Single Complaint Tracking System (SCTS) was designed with this purpose in mind.

##### Accomplishments

The Department of Toxic Substances Control's (DTSC) programming staff moved the SCTS into the new secured system format and tested the complaints staff log-in function, the Central/Supervisor/Staff permission levels, the identity tracking function, password maintenance, and other related functions. The system's programmer expects to move the security function out of the test mode and into production in September 2010.

The SCTS programmer also created and tested a new system function that will allow citizen complainants and complaints staff to upload attachments to the online complaints files that are created when a complainant originally files the online complaint. A virus scan process will be incorporated into the system in the coming year that will scan attachments prior to upload that will be part of the attachment function and will complement system security features. The new attachment upload function is expected to go online in test mode and move into production sometime in October 2010.

The SCTS programmer also worked with the SWRCB/RWQCB staff to adjust their BDO's complaint assignments function to more closely match their business processes. Additional lists of SWRCB Complaints Centrals/Supervisors/Staff as well as RWQCB Districts were included in the system database tables and system log-ins were established for those staff. The system programmer expects to notify SWRCB/RWQCB staff of their new system access and provide system training in September /October 2010.

#### Calendar Year 2010 Objectives

Move the SCTS to the new secured system and establish the system protocols that will allow citizen complainants to upload attachments to their online complaints.

#### Calendar Year 2011 Objectives

Move the SCTS out of partial beta-test mode and fully into production. Work with complaints staff to build data reports to meet their business needs.

## **2) Enforcement Training**

One crucial role Cal/EPA plays in California's diverse and decentralized network of enforcement is coordination and support of training of enforcement personnel. Environmental laws and regulations are very technical and require special expertise to enforce. Basic and continuing education for environmental regulatory professionals are key. Enforcement requires additional skill sets, such as cross media violations awareness, report writing, investigation, and case development.

Cal/EPA coordinates enforcement training with the California District Attorneys Association, the California Hazardous Materials Investigators Association, the California CUPA Forum Board, the Western States Project (a U.S. EPA-funded training entity) and the Peace Officers Standards Training Commission (POST). Enforcement training information is on the web at: [www.calepa.ca.gov/Enforcement/Training](http://www.calepa.ca.gov/Enforcement/Training).

Specific enforcement training is described below. Cal/EPA continues to fund several of these enforcement training events using money from settlements of enforcement actions in which a portion of the settlement funds were specifically designated for use for enforcement training. These funds were the source of the enforcement scholarships referred to in this report.

#### The Cal/EPA Basic Inspector Academy

See description and details above.

#### Environmental Enforcement Training Coordination Forum

Forum members consist of the CUPA Forum Board, California Hazardous Materials Investigators Association, Cal/EPA, Western States Project, EPA National Environmental Training Institute,

California District Attorney Association, California State Parks, POST, and California Specialized Training Institute (part of the California Emergency Management Agency). The mission of this forum is to protect human health and the environment through coordinated, consolidated, and consistent environmental enforcement training. The Forum is chaired by a member of the Cal/EPA Enforcement Training Committee and meets quarterly.

#### Annual Unified Hazardous Materials Program/Underground Storage Tank Training Conference

The Unified Hazardous Waste and Hazardous Materials Management Regulatory Program (Unified Program) consolidates permits, inspections, and enforcement activities for six hazardous materials, hazardous waste, and emergency management programs within the Certified Unified Program Agencies (CUPAs). The annual training conference has over 1,200 attendees. Sixty technical sessions are presented in six different “tracks.” Cal/EPA works with the CUPA Forum Board to present this annual training conference and coordinates the enforcement track of sessions. In 2009, the enforcement track included multi-county investigations, gathering, and presenting evidence and effective interview techniques. Cal/EPA Supplemental Environmental Project (SEP) funds were used to record some of the classes offered in the enforcement track and to pay for all enforcement speaker travel costs. Cal/EPA worked with the CUPA Forum Board to establish a web based portal where these recorded trainings can be viewed online:

[http://www.calcupa.net/training/training\\_video\\_library.asp](http://www.calcupa.net/training/training_video_library.asp).

#### Other Enforcement Training

“One Day” enforcement classes were held in Santa Rosa, Santa Cruz, Sacramento, Fairfield, San Diego and Ukiah.

Cal/EPA partners with the Western States Project (WSP), a US EPA funded non-profit, to provide training for state and local environmental enforcement.

- 136 attended the one-day classes (three different locations) on "Effective Interviewing for Inspectors"
- 59 attended “Introduction to Environmental Enforcement” in Sacramento (March 24-26, 2009)
- 2 attended the “Complex Case Development Course” at the US EPA training facility in Denver, Colorado (May 11-15, 2009). All travel costs were paid for by the Western States Project. Most of the attendees of the training were from other states.
- 28 attended the “Introduction to Criminal Environmental Investigations Course” in Albuquerque, New Mexico (Nov. 2-4, 2009). All travel costs were paid for by the Western States Project. Most of the attendees of the training were from other states.

Cal/EPA assists the WSP with administering scholarships and provides some Cal/EPA scholarships to attend Western States training. The Enforcement Training Team provided support for the “Effective Interviewing for Inspectors” courses including registration, site selection and preparation and role playing in the practical exercise portion of the training.

For more information on the Western States Project, see

<http://www.regionalassociations.org/default.aspx>.

### **3) The Environmental Circuit Prosecutor Project**

The Environmental Circuit Prosecutor Project is a cooperative project of Cal/EPA and the California District Attorneys Association as provided for in California Penal Code section 14309. The Project attempts to fill the gap in the enforcement of environmental laws in California's small counties by providing environmental prosecutors to District Attorneys in rural areas. Circuit Prosecutors are hired by the California District Attorneys Association and then made available to be deputized by rural county District Attorneys to handle civil and/or criminal environmental cases. One Circuit Prosecutor may work in as many as 10 different counties. Their cases run the gamut of various environmental programs but the majority of cases involved water quality including streambed alteration and sediment discharges, hazardous waste and hazardous materials, illegal dumping and Fish and Game violations. In addition to handling cases, Circuit Prosecutors assist local enforcement task forces and provide training.

The Project continues to suffer a decline in funding, reduction in staff, the number of counties it serves and the number of cases it can handle.

In 2009, the Circuit Prosecutor Project opened 26 environmental civil and criminal cases, closed 38 cases and obtained \$503,295 in fines, penalties, costs and additional relief, as well as 20 days jail time, 21 years probation and 64 hours of community service.

In 2009, the Circuit Prosecutor Project provided service to the following counties through direct filings or as a result of a multijurisdictional case: Alpine, Amador, Calaveras, Colusa, Glenn, Humboldt, Inyo, Kings, Lake, Mariposa, Mendocino, Merced, Modoc, Mono, Nevada, San Benito, Shasta, Stanislaus, Sutter, Tuolumne, and Yuba.

At the end of 2009, the Circuit Prosecutor Project had one full time prosecutor who works on multi-county and statewide cases (funded by a SEP from the Home Depot case), and one full time prosecutor located near Sacramento. For comparison, in 2005 the project had 6 prosecutors located in Redding, Humboldt, Sacramento and Modesto, worked in 33 counties, 222 civil and criminal cases, 175 cases closed obtained \$3,859,866.24 in fines, penalties, costs, SEPs and additional relief, 2 years and 100 days of jail time, 11 years of probation and 51 days community service.

For more information on the Project, see <http://www.calepa.ca.gov/Enforcement/CircuitPros/>.

### **4) The Penal Code Section 14300 Environmental Enforcement and Training Act**

The legislation that created this Act was the product of a Cal/EPA-chaired stakeholder group that was charged with the task of finding alternative means of supplemental funding for environmental enforcement and training. This Act provides a method for the distribution of grant funds for enforcement, enforcement training, and the Environmental Circuit Prosecutor Project. Funding for the account comes from money designated for such use in civil or administrative judgments in enforcement cases. These contributions are often referred to as Supplemental Environmental Projects or "SEPs." No General Fund money is used in this account. Cal/EPA manages this account and annually issues the grants.

A total of \$305,262 was distributed in 2009. The sources of the funds were contributions from civil and administrative cases settled by the Department of Toxic Substances Control and local District

Attorneys. The fund has never received a contribution from the Air Resources Board, the State Water Resources Control Board, the Department of Pesticide Regulation or the Integrated Waste Management Board.

The funds were apportioned as required by statute:

- 25 percent (\$76,315) to the Environmental Circuit Prosecutor Project
- 25 percent (\$76,315) to the California District Attorneys Association for enforcement training for investigators, regulators and prosecutors
- \$ 76,315 to Commission on Peace Officer Standards and Training (POST) for environmental investigation training
- Remainder (\$76,315.51) to Cal/EPA to be awarded as grants for training and enforcement. These funds were awarded to the Environmental Circuit Prosecutor Project.

For more information on the Penal Code section 14300 fund, see:

<http://www.calepa.ca.gov/Enforcement/Grants/14300.htm>.

### **5) Supporting Environmental Enforcement Task Forces**

Since its inception, Cal/EPA has been encouraging the creation and support of task forces dedicated to the deterrence, detection, investigation, and prosecution of environmental violations.

Environmental enforcement task forces are comprised of voluntarily participating federal, state, and local agencies with enforcement authority. The members of these task forces generally include local, state or federal prosecutors, local, state, and federal law enforcement agencies (Sheriff, Fish and Game wardens, California Highway Patrol, Federal Bureau of Investigation, U.S. EPA Criminal Investigation Division, etc.), investigators and technical experts from Cal/EPA's Boards and Departments, and local environmental agencies (local hazardous material control programs, air pollution control districts, sanitation departments, etc.). Task forces facilitate the pooling and exchange of resources and intelligence between different law enforcement and regulatory entities. These cooperative partnerships allow task force member agencies to pursue investigations that they would not be able to complete alone. For more information, see:

<http://www.calepa.ca.gov/Enforcement/TaskForce/>.

The Cal/EPA Office of the Secretary chairs the State Environmental Enforcement Task Force, which meets monthly. Attendees include representatives from enforcement programs from Cal/EPA Boards and Departments, enforcement liaison attorneys from the Cal/EPA Boards and Departments, the Department of Fish & Game, the California District Attorneys Association, Assistant U.S. Attorneys, Deputy Attorneys General, U.S. EPA Criminal Investigation Division, and the federal Bureau of Land Management. The purpose of these meetings is to go over current major cases, discuss enforcement program administrative issues (new regulations, legislation, and budgets), address needs for joint investigations, enforcement training, and enforcement projects including the Environmental Circuit Prosecutor Project, and discuss issues affecting local agency partners.

In 2009, DTSC reduced its support of local task forces and related activities such as sampling support for local investigations due to the demands of new unfunded programs, budget and travel restrictions and difficulty in filling its investigator positions. This has significant impact on task force activity and decreased the number of cases that DTSC has referred to prosecutors.

The Cal/EPA Office of the Secretary participates in the Border Environmental Enforcement Task Force, a group of federal, state, and local officials that meet quarterly in the Mexico/California border area to discuss border-related environmental enforcement issues; and the Border 2012 California/Baja Waste and Enforcement Task Force, which includes Mexican environmental enforcement officials.

Cal/EPA also participates in the Western States Project; a U.S. EPA-funded non-profit organization that provides environmental enforcement resources, networking and training to the western United States. For more information, see <http://www.regionalassociations.org/>.

## **6) Cal/EPA Assistance on Investigation and Enforcement Actions**

Cal/EPA has institutionalized the cross media model of investigation and enforcement. Cal/EPA's enforcement training is focused on the cross media model. The Cal/EPA Basic Inspector Academy trains inspectors to recognize enforcement issues outside of their own programs and on how to create cross media teams. The annual Cal/EPA Cross Media Enforcement Symposium highlights accomplishments in this area and teaches this model to regulators, investigators, and attorneys. This training is brought to reality by the task forces described above, where inspectors and others can request assistance with enforcement investigations. Cross media enforcement is a regular part of environmental enforcement in California; every day regulators and investigators "make the call" to another agency about violations requiring this approach.

Pursuant to a Memorandum of Understanding between the Air Resources Board and Cal/EPA, the Strategic Enforcement Investigations (SEI) unit at Air Resources Board has been designated as Cal/EPA's cross media enforcement unit in accordance with Government Code section 12812.2. Other Cal/EPA Boards, Departments, regional and local agency partners provide enforcement and case development assistance on a case-by-case basis.

SEI has surveillance equipment and staff to assist state, regional and local agencies in investigations of environmental crimes. Video evidence is a highly effective tool in environmental crime enforcement and its use by state and local agencies continues to grow. The use of remote surveillance is particularly effective in illegal dumping problem areas.

## **7) Case Coordination and Referral**

During 2009, Cal/EPA continued to assist and coordinate regulators, investigators, and prosecutors in investigations of violations of environmental laws. Cal/EPA meets with US EPA Region 9 enforcement officials regularly to discuss federal enforcement activity and to coordinate joint state and federal investigations and prosecutions.

California has seen an increase in the number of multi-county and statewide civil cases brought to enforce environmental laws. These cases require close cooperation between the regulators in various jurisdictions and the local and state prosecutors. Cal/EPA assisted this effort by providing training on this subject at the CUPA/UST Training Conference. Complaints and judgments from multi county and state actions are posted on Cal/EPA's web pages at <http://www.calepa.ca.gov/Enforcement/Orders/>.

### **C) Enforcement Program Metrics**

The Office of the Secretary in its enforcement role does not implement a regulatory program; rather its statutory duties are to coordinate existing enforcement efforts. Therefore, Cal/EPA does not have its own reported data but rather relies on the data generated by the BDOs and local agencies. The Office of the Secretary has led efforts to improve the data generated by these programs, see reports under the Enforcement Initiative and the Unified Hazardous Materials Program report.

### **D) Program Limitations**

Similar to other programs described in this report, the Office of the Secretary functions with limited enforcement resources. Since 2003, funds for implementation of Government Code section 12812.2 and the Circuit Prosecutor Project were lost. Our statutory responsibility to promote consistent and effective enforcement across environmental programs is made more difficult by the significant differences in program statutory construction, differing and sometimes limited enforcement authorities, program structures and reporting responsibilities. Each individual program's primary focus on a single environmental media (e.g., air, water, waste, etc.) remains largely driven by program structure, legal responsibilities, funding constraints, federal oversight and similar issues.

Finally, the significant data challenges noted elsewhere in the report remain a limitation.

## **III. WHAT ARE WE GOING TO DO: FUTURE DIRECTIONS**

### **A) Objectives for 2010**

- Continue the work on infrastructure improvements tasked to Enforcement Initiative Teams and Committees.
- Produce a comprehensive Report on Environmental Enforcement for the year 2010.
- Continue support for enforcement training for regulators, investigators and prosecutors.
- Provide support for environmental enforcement task forces to facilitate communication between regulators in various programs and prosecutors.

### **B) Recommendations for Future Actions**

- Work to coordinate the various providers of environmental enforcement training.
- Produce an annual comprehensive Report on Environmental Enforcement.
- Work on regaining funding for the Circuit Prosecutor Project
- Work on regaining support for enforcement task forces.

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