



Heal the Bay

For immediate release

## **STATE WATER BOARD ISSUES ‘LICENSE TO KILL’**

*Inaction allows millions of gallons of toxic wastewater to foul L.A since 2000*

SANTA MONICA, CA (Thursday, January 8, 2009) – The State Water Resources Control Board has allowed dischargers to spew millions of gallons of toxin-laden effluents into Southland water bodies with virtual impunity over the past eight years, according to a detailed study released today by environmental group Heal the Bay.

An extensive review of regulatory files by Heal the Bay’s scientific staff reveals a nearly decade-long pattern of state officials shirking their responsibilities when public sewage treatment works and industrial facilities flout narrative and numeric limits for chronic toxicity in discharged wastewater.

The outflows of effluents laced with heavy metals, pesticides and other toxins have created conditions injurious to aquatic life throughout the region, including stunted growth, impaired development, reduced reproduction or even increased mortality. Hundreds of toxicity exceedances since 2000 have exacerbated ecosystem impairment throughout the region, in the scientific judgment of the study’s authors.

Dischargers themselves have conducted repeated sample analyses that indicate that their effluent was toxic to aquatic life during the review period. Nonetheless, the state board’s lax regulatory environment has tied the hands of the Los Angeles Regional Water Quality Control Board, resulting in an abysmal 1.2% record of holding Southland dischargers accountable for toxic discharges.

“The State Water Board broke its promise to develop a toxicity policy by 2004,” said Mark Gold, president of Heal the Bay. “As a result, the Los Angeles Regional Water Board has been constrained from keeping toxic effluent from reaching local waters to the detriment of aquatic organisms.”

During the eight-year study time period, there were 819 chronic and 68 acute instances of toxic water discharge or “exceedances,” and there were 408 chronic and 64 acute instances of toxicity among all receiving water testing stations. While monitoring this high frequency of toxicity, the Regional Board only issued 80 notices of violation in the Los Angeles region from 2000-08.

Only 11 of the 80 violation notices (13.8%) had any accompanying enforcement penalty. In other words, only 1.2 % (11 out of 887) of the instances in which toxicity was present in the effluent did the Regional Board follow up with substantial enforcement action. With a 1-in-100 chance of enforcement, there is minimal incentive for dischargers to keep their effluent safe for aquatic life.

Under state law, dischargers that release wastewater must receive permits from the Los Angeles Regional Water Quality Control Board, which sets and enforces limitations based on national standards of

allowable concentrations of pollutants. Permit holders are required to test for these toxic substances in their discharge on a regular basis and measure the pollutants' combined effects on living test organisms.

As part of its Los Angeles Basin Plan, the Regional Board sets specific objectives for toxicity. According to the plan, all waters "shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal or aquatic life." Because this requirement is also a component of the federal Clean Water Act, toxic discharges are illegal under both state and federal law.

Despite these self-adopted regulatory guidelines and the clear authority to enforce them, the state board has failed to uphold its duty to set numeric limits for toxicity and force dischargers to adhere to them.

Instead, state officials have allowed polluters to operate what is essentially a voluntary compliance program. In the vast majority of cases, when dischargers report toxicity in their wastewater their findings are merely the trigger for additional sampling and study rather than cause for immediate violation and penalty. Dischargers rarely pursue follow-up sampling and evaluation, the examination of records shows. The study demonstrates that the Regional Board has not made identifying or abating the sources of toxicity a priority.

Unfortunately, in considering a 2003 petition by the Los Angeles County Sanitation Districts that challenged the overall propriety of numeric limits for chronic toxicity in discharge permits, the State Board declined to make a determination on the issue.

While promising at the time to make a final ruling on the matter within 12 months, the board has still not addressed the issue five years later. The foot-dragging has created regulatory uncertainty for the Los Angeles Regional Board and, likely, all other regional boards in California.

"Although Heal the Bay only examined the records for the Los Angeles region, we believe that the local situation is just the tip of the iceberg on the magnitude of the toxicity problem in California," said Charlotte Stevenson, a Heal the Bay staff scientist who served as the study's lead author. "The vague guidance from the State Board has allowed toxicity to be present for years without anyone being held truly accountable, and the consequences can likely be seen in rivers and streams throughout the state."

Based on the study, Heal the Bay urges the following:

- Numeric chronic toxicity limits should be addressed immediately at the State Board level.
- An enforceable numeric toxicity limit must be implemented in permits for all dischargers.
- An exceedance should constitute a violation, not just trigger further action.
- If a given test finds toxicity to aquatic life, discharger failure to implement accelerated follow-up monitoring and source identification/reduction should constitute a violation.
- A state-managed online data management system to track information and manage permits should be made available to dischargers, who should be required to submit data online in a timely manner via a standardized system.

Heal the Bay has forwarded the survey findings and subsequent recommendations to the regional and state water boards. Heal the Bay scientific staff will continue to advocate with state officials to honor their commitment to keeping California waters free of toxic substances.

[View the complete study.](#)

### **About the Los Angeles Regional Water Quality Control Board**

In 1970, the California Legislature established the Los Angeles Regional Water Quality Control Board as one of nine local implementing agencies for the State Water Resources Control Board. The Regional Board's jurisdiction covers nearly 4,000 square miles and services more than 10 million people in Los Angeles and Ventura Counties. Within the Regional Board's jurisdiction, there are approximately 390 surface water body segments.

### **About Heal the Bay**

Heal the Bay is a nonprofit environmental organization dedicated to making Southern California coastal waters and watersheds, including Santa Monica Bay, safe, healthy and clean. We use research, education, community action and advocacy to pursue our mission.

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