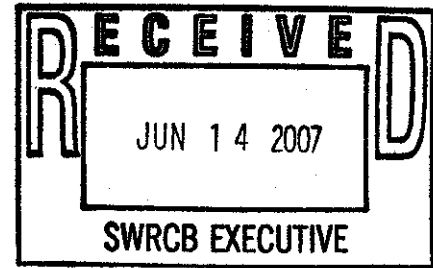




6/28/07 Workshop
WQ Enforcement
Deadline: 6/14/07 Noon

June 14, 2007

Song Her, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
Fax (916) 341-5620



Re: Comments on the Water Quality Enforcement Policy

Dear Members of the State Water Resources Control Board:

Thank you for the opportunity to provide comments on the Water Quality Enforcement Policy of the State Water Resources Control Board. The Community Water Center is a non-profit based in the heart of the San Joaquin Valley, whose purpose is to enable all communities to have access to safe, clean and affordable water. We work with many residents of small, low-income, disadvantaged communities throughout the San Joaquin Valley that do not have potable water in their homes due, primarily, to groundwater contamination. We encourage the Board to take a hard look at how the enforcement policies and priorities can be directed to better protect and restore our groundwater, particularly for the many Californian's that have no alternative sources of drinking water.

In these comments we outline a few guiding principles that the Board should incorporate into the Water Quality Enforcement Policy.

The Board should prioritize water quality violations that affect the health and environment of those Californian's that are already disproportionately impacted by environmental pollution and have little or no access to alternative water sources. To that end, the Board should direct staff to identify environmental justice communities and prioritize those violations and water quality problems that specifically impact these communities. Given how large regions such as the Central Valley are, and the many barriers, including geography, language, and information that preclude many people affected from actively participating in the State and Regional Water Board's actions, we strongly urge the Board to take pro-active steps to protect our most vulnerable communities.

Clean water is a basic human right and the central concern of the State and Regional Water Boards. Therefore, the State's Water Quality Enforcement Policy should direct the State and Regional Boards to focus enforcement and clean-up efforts on groundwater and surface water that is used as a source of drinking water.

In practice, surface water quality problems have taken precedence over groundwater violations, in part because of the priority given surface water by the federal Clean Water Act. Unfortunately,

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groundwater violations generally are not enforceable by citizen suits, and therefore the public relies entirely on the State and Regional Boards to enforce laws that protect these sources. Particularly in areas such as the Central Valley Region, where 90% of the residents rely on groundwater as their primary source of drinking water, the relatively low priority of groundwater protection is unacceptable and has already resulted in extreme and widespread drinking water crises in some areas. For example, testing by the State Water Board's Groundwater Ambient Monitoring Assessment Program recently found that 40% of the private domestic wells tested in Tulare County had nitrate over the MCL, and 75% of domestic wells had at least one contaminant over a drinking water notification limit.¹ Additionally, 20% of public water systems in Tulare County have nitrate over the MCL.² This level of preventable, human-caused contamination of otherwise high quality groundwater is unacceptable, and clearly falls within the responsibility of the State and Regional Water Boards.

Below we have provided a number of steps that the State and Regional Boards should take to make enforcement more effective in preventing and forcing clean-up of water quality violations that affect environmental justice and other disadvantaged communities.

- 1) Post all notice of violations on the website so that the public has easy access to information on violations. In particular, violations should be searchable by geographic area so that the public can easily find violations that may affect their water supply.
- 2) Provide up-to-date performance measures on the website and allow easy regional comparisons so that the public and the Regional Boards themselves can compare performance.
 - a. One performance measure should be the number of high quality drinking water sources (i.e. without naturally occurring contaminants) that are above half of the MCL, as well as above MCL. This will allow comparison on how well regions are protecting and restoring high quality waters that are used as a source of drinking water. Additional performance measures could include the number of public water systems with wells that are unable to meet water quality standards due to contaminants that are not naturally occurring.
- 3) Integrate the Regional Water Boards' databases of permitted facilities with the Department of Health Service's database of public water wells, as well as the Department of Water Resources' database of private domestic water wells, and prioritize enforcement actions on facilities that threaten the aquifers of these drinking water sources.
 - a. Within that prioritization, low-income and small communities that have fewer alternative water sources should be further prioritized.

¹ Available at <http://www.waterboards.ca.gov/gama/voluntry.html#tulare>

² Tulare County Department of Environmental Health's Drinking Water Program.



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- 4) Analyze the water quality information reported to the Department of Health Services on public water systems' wells and prioritize nearby potential dischargers of those contaminants found near or above the MCL for such enforcement actions as Technical Reports and Investigations and when appropriate, clean up and abatement orders.
 - a. Such enforcement actions should be prioritized particularly for small, disadvantaged, low-income communities that often do not have the resources to investigate sources of well contamination and have access to few if any alternative water sources.
 - b. At the very least, potential dischargers that could threaten or may have already contaminated drinking water sources should be required to install monitoring systems to determine any contributions of contaminants to the aquifer and detect contamination before it becomes widespread.

These suggestions are just a few of the pro-active actions necessary to ensure that the water that Californians rely on to live, work and play is adequately protected. We encourage the State Board to contact us and other environmental justice stakeholders to help design an effective program to ensure that low-income communities and communities of color are not disproportionately affected by the Enforcement Policy and other actions of the State and Regional Water Boards.

Please feel free to contact us regarding these suggestions and concerns anytime. We look forward to working with the State and Regional Water Boards to ensure that clean water is a human right of all Californians.

Sincerely,

A handwritten signature in black ink that reads "Laurel Firestone". The signature is written in a cursive, flowing style with a prominent loop at the end of the last name.

Laurel Firestone
Co-Executive Director, Community Water Center