

From: Michael Garabedian
To: Croyts-Schooley_CJ@Waterboards
Subject: Water Quality Enforcement Policy Proposed Rulemaking Public Comment
Date: Tuesday, October 18, 2016 12:02:46 PM



Friends of the North Fork (American River) submits these comments on Revised August 25, 2016 Notice of Proposed Rulemaking on the State Water Resources Control Board Water Quality Enforcement Policy.

We request a public workshop well in advance of the a December 6, 2016 hearing and adoption date.

We agree with that there is a need for a new and improved enforcement policy.

However, there is no website for the proposal or explanation in its documents about how it came about and how it was drafted. Based on brief inquiry we understand that it was drafted by counsel and regional board staff. This should be workshopped.

However, we note that the proposal adheres in major aspects to the existing policy framework. This is troubling in a number of ways.

The policy recognizes many factors to reduce enforcement while at the same time giving inadequate attention to factors that should limit or prohibit compromising enforcement. For example, factors are not adequately recognized or are not recognized at all as being necessary to prevent undermining the strength of enforcement actions.

For example, the protection of pristine and near pristine waters.

For example NPDES discharges that end up in surface water bodies like the North Fork American River which point of entry of POTW discharges is not shown on the NPDES permit maps.

For example regional board extreme resistance to the need to monitor bodies of water below the point of discharge for discharge impacts.

For example, discharges that enter public recreation areas and parks like the Auburn State Recreation Area.

These and points those below suggest that has been no effort to ask for public concerns about enforcement that should be addressed.

Potentially damaging to the policy is what may be the misuse of leveling of the playing field concept. Regulation and enforcement is what levels the playing field so a discharger can't out-compete other dischargers. Proving an economic advantage or disadvantage may allow entry into enforcement what might undermine it.

The policy and its many procedures might ultimately fail including the public because there is no requirement of disclosure about how the enforcement decisions are made that are made pursuant to the policy and how and were they are documented for the public.

Page 4 Disadvantaged Communities. As written this may encourage pretend, intentional searched outfits that will support this designation after bro[ping another one, or even fraudulent assertions.

This completely overlooks cities below the industrial pretreatment threshold requirement for such program that have industries that should be cleaning up their discharges. Instead the public is burdened with increased rates to use its POTW to to manage what Miller Coors should manage Colfax and the regiona' board with USEPA accepting the regional board's decision to not require an investigation of pretreatment necessity. This may be a not uncommon problem including interference and upset.

Page 6 Ranking Violations. These may become de facto standards. The 1,000 for municipal water intake overlooks riverfront drinking water users.

Page 10 petitions to State Board. Friends considers these as a waste of time on violation orders. Plus there is the absence conflict of Board interest/ ethical problems. I believed it was an enforcement order we petitioned and the State Board counsel who called to say it was dismissed had name last name as the regional board's enforcement officer.

Page 11 identified funds. All funds administered by the boards hold be subject to this provision.

Page 11 coordination, page 11 general.

This is also a subject of well earned enforcement ridicule. DFW has expressed on the record that when Colfax stops discharging into the ravine this affects life in it. The shutting down of the wastewater treatment is not considered to be a permit violation because POTW water is diverted into a 75 foot sewer pond #3. Miller-Coors caused the plant to close down off and on for about 90 of the first six months of 2015. No violation there.

Page 29 Other Factors.

Step 8 a is open season undermining everything else.

Page 33-34 MMPs. As administered and without required disclosure of rationale this seems to us to be abused for Colfax.

The state and region water board staff are not in a position to know what the public wants.

Michael Garabedian, President
Friends of the North Fork
916-719-7296