



California River Watch PO Box 817 Sebastopol CA 95472 www.ncriverwatch.org

December 27, 2016

Chair Felicia Marcus and Board Members
c/o Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Public Comment
2016 Water Quality Enforcement Policy
Deadline: 12/28/16 12:00 noon



Sent by electronic mail to: commentletters@waterboards.ca.gov

RE: Comment on Water Quality Enforcement Policy

Dear Chair Marcus and Board Members:

Please place these comments in the record.

We support the **policy language on assessment of liability** as long as liability determinations will assure compliance and applies a reasonable remedy.

1 **Progressive enforcement** is acceptable if the desired outcomes of protection and/or recovery of beneficial uses is insured.

2 The enforcement Policy should be applied to **Agricultural Operations and other Non-point Source violations**.

3 **BMPs:** The use of BMPs in place of more rigorous oversight can be problematic. If used as a solution rather than a tool, it itself can be a compliance issue.

4 **Penalties** must be commensurate with the level of harm, or potential harm, and not just a cost of doing business. The policy consideration of the discharger's history and conduct is appropriate and should be informed and subject to serious compliance standards and extensive penalties. Insufficient penalties should not be allowed to be a cost of doing business or a cost that is passed on to the public.

5 **Commensurate and equitable penalties must meet standards:** Penalties should have assurance of resource recovery, deterrence/resource protection, and be equitable in terms of lost resources (beneficial uses) and the cost of prosecution of an enforcement action. If "equity" is a consideration, as stated in the policy, all costs and effects must be part of the consideration.

6 The **ability to pay language** should have the following considerations: degree of violation, time period for attaining compliance, cooperation of discharger, and resource costs to the public and

agency. All of these factors must be considered in light of equity. Payment over time can be considered in settlement of these issues.

Consideration of the time frame for a remedy or recovery of polluted or impaired waters:

Expenses for a recovery plan and recovery of impacted areas can be very expensive as well as taking an inordinate amount of time. This is economic rationale for a more rigorous enforcement policy that not only may stop or diminish the impact but sets a precedent for deterrence. Actions (and policy) that discourage, control, or eliminates potential discharges are essential for an effective water quality control program.

Public review: The costs and findings of any settlement and/or penalty should be supported by an accounting of this and should be available for public review.

Thank you.

Sincerely,

Larry Hanson, Manager