



**BACWA**  
BAY AREA  
CLEAN WATER  
AGENCIES



**SCAP**  
SOUTHERN CALIFORNIA ALLIANCE OF  
PUBLICLY OWNED TREATMENT WORKS



March 3, 2017

VIA EMAIL – [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

State Water Resources Control Board members  
1001 I Street, 24th Floor  
Sacramento, CA 95814

RE: Water Quality Enforcement Policy Modifications – Request for Stakeholder Process

Dear State Water Board Members:

On behalf of the municipal publicly owned treatment works community (including the California Association of Sanitation Agencies (CASA), Southern California Alliance of POTWs (SCAP), Bay Area Clean Water Agencies (BACWA), and Central Valley Clean Water Association (CVCWA)), and the water supply community (Association of California Water Agencies (ACWA)), we urge the State Water Resources Control Board (SWRCB) not to adopt the proposed amendments to the 2010 Enforcement Policy on March 7th.

Instead, we urge you to sponsor and oversee a meaningful stakeholder process to discuss the proposed modifications as was done in 2009 when this policy was first proposed and adopted. Such a process is needed in order to adequately understand the reasons for changes to the existing policy, to discuss modifications that restore flexibility and negate against unnecessarily increasing penalties for specific types of discharges, and to weigh the benefits of increasing the amount of penalties that can go towards Supplemental Environmental Projects (SEPs) and Enhanced Compliance Projects (ECAs) from the current cap of 50%. Allowing stakeholders to engage together and understand each other's positions and the ramifications of the modifications will ensure a more fair, clear, and consistent final policy. Because the current 2010 policy will remain in place, there is no time constraint on adoption, which allows for this stakeholder process to be undertaken.

The signatories to this letter are understandably concerned that their voices have not been heard. Before and after the first hearing, each entity sent letters asking for modifications to the policy, and SCAP even sent in redlines of the entire proposed policy. A few changes were made in response to comments from the water supply community, including ACWA and the California Water Association. However, no changes were made to address the remaining valuable and thoughtful comments, especially those made by the publicly owned treatment works community. This is why, at the last hearing on this item, you heard comments asking for changes to be made.

After that hearing, the signatories met with Office of Enforcement staff, including Cris Carrigan, and discussed each of the areas of main concern. Enforcement staff asked that we submit new suggested language, focusing their attention on items of greatest concern. We submitted the requested redlines, which were approved of and agreed upon by all five participating entities. Of the proposed changes, only one modification was made – related to the Human Right to Water Act. While ACWA appreciates being able to work with Office of Enforcement staff on this change, the remaining concerns regarding penalty calculations are shared by all of the signatories to this letter.

We hope that you will seriously consider the need for real stakeholder input by those most affected by this policy. Our member agencies represent the leaders of water and wastewater management that regularly go above and beyond their duties by providing leadership and training to smaller agencies and extensive public outreach and education both within and outside their agencies and cities, and many compete for and receive awards for being the best in the business. With a slightly more flexible policy, the State can achieve meaningful enforcement while avoiding more contentious circumstances and can allow funds to be put towards activities and infrastructure to ensure future compliance.

Respectfully submitted,



Debbie Webster, CVCWA Executive Officer



Rebecca Franklin, ACWA



Steve Jepsen, SCAP Executive Director



Laura Pagano, Chair, BACWA



Adam D. Link, CASA  
Director of Government Affairs

cc: Jon Bishop, SWRCB