



San Diego County Water Authority

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Sent via Electronic Mail to: commentletters@waterboards.ca.gov and
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OTHER REPRESENTATIVE

County of San Diego

October 18, 2016

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

RE: Comment Letter – Water Quality Enforcement Policy

Dear Chair Marcus and Members of the Board:

The San Diego County Water Authority is a wholesale water agency with 24 member retail agencies serving a population of 3.3 million people in San Diego County. As a water supplier, we recognize the importance of protecting water quality in our region, and appreciate the opportunity to comment on proposed changes to the Water Quality Enforcement Policy (Enforcement Policy). We support the State Water Board's desire to increase transparency and consistency in applying the Enforcement Policy. We also support proposed changes to the Enforcement Policy to increase public input into statewide and regional enforcement priority setting. However, we have a number of concerns with the proposed changes related to ranking and prioritizing violation enforcement, and monetary assessments in administrative civil liability actions.

The proposed amendments would reduce the ranking system for violations from three to two classes. Class I violations continue to be defined in a manner that causes or has the potential to cause a substantial threat to water quality and/or the environment or human health. In addition to this definition, Class I now includes a list of violations that "ordinarily" would fall under this class. We recommend that this list be clarified as an example of Class I violations, depending on individual permit conditions. We also recommend the following changes to this list:

- Discharges causing or contributing to exceedances of primary maximum contaminant levels for chemical constituents in receiving waters with a beneficial use of municipal and domestic supply (MUN)
- Discharges exceeding water quality based effluent limitations for priority pollutants as defined in the California Toxics Rule by 100 percent or more, unless exempted by the discharge permit

Class III violations that were identified as posing a minor threat have been removed from the Enforcement Policy. It is not clear that this change in the ranking system will be beneficial or provide additional clarity. As drafted, we are concerned that the proposed changes will assign too much weight for enforcement actions for minor violations.

Water suppliers in the San Diego region currently operate under General Waste Discharge Requirements for Discharges of Hydrostatic Test Water and Potable Water to Surface Waters and Storm Drains or Other Conveyance Systems within the San Diego Region (Order No. R9-2010-003, NPDES No. CAG679001), and have applied for coverage under the Statewide NPDES Permit for Drinking Water System Discharges to Waters of the United States. We are concerned that potable water discharges that previously would have been Class III violations would now be ranked as more serious Class I violations despite posing minor threat of harm.

Similarly, we are concerned that the penalty calculation methodology assigns too much weight for potable water discharges. Under Factor 3, Susceptibility to Cleanup or Abatement, we recommend assigning a score of 0 for potable water discharges that are addressed within a reasonable amount of time, accounting for the nature of these discharges that are not susceptible to cleanup or abatement, and attenuate in the environment with little potential impact (page 16). Under High Volume Discharges, the option to use a maximum of \$1.00 per gallon for recycled water discharges should also be extended to potable water discharges, reflecting the similar chemistry of these discharges with recycled water (page 19).

We support proposed changes to enhance consideration of disadvantaged communities in the Enforcement Policy. We recommend the Enforcement Policy include changes extend consideration of the cost of compliance for disadvantaged communities not only to POTWs and sewage collection systems include but also to potable water systems regulated by NPDES permits.

We request State Water Board staff conduct additional outreach to the stakeholder community regarding the proposed changes to the Enforcement Policy. We found the Initial Statement of Reasons posted on the State Water Board's website to be helpful in understanding the proposed amendments. However, changes to the Enforcement Policy will likely have significant impacts

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to the regulated communities, and we believe it is important to take the time to conduct additional outreach with the regulated community and other stakeholders. We recommend staff hold a public workshop to explain the proposed changes and request feedback in advance of a public hearing on the amendments.

Thank you for consideration of our comments on proposed changes to the Enforcement Policy. Please contact me with any questions at (858) 522-6743.

Sincerely,

A handwritten signature in black ink that reads "Toby Roy". The signature is written in a cursive style with a large, prominent "R".

Toby Roy, Water Resources Manager
Water Resources Department

