

September 12, 2016

To:  
State Water Resources Control Board  
1001 I Street, 16<sup>th</sup> Floor  
Sacramento, CA 95814



From:  
Keith Hamblin  
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**Subject: Comment letter – Water Quality Enforcement Policy.**

Dear Board:

I have read the proposed changes to the *Water Quality Enforcement Policy*. Below are my comments on changes that need to be made to the proposal. I will cite the page & paragraph on which my concerns are based.

1. Page 1. Par.3.
  - a. Add words. ‘Without a strong *and fair* enforcement program....’
2. Page 2. Last Par.
  - a. “...may bring enforcement actions against *contractors and/or agents*,...”. There is no definition of what an agent is. Could it be a realtor?, engineer? This opens a very broad spectrum which could get a lot of innocent people named without reason. The text should state that the person who is primarily responsible for a violation is the property owner, operator or developer. The last person to be cited is the contractor if they performed work and that they knowingly violated water quality standards etc. I do not believe a Legally Responsible Person should be part of the enforcement since they are carrying out the orders of the owners, operator etc.
3. Page 3. Par. 5.
  - a. The definition of *Fair Enforcement* is too narrow of a definition. The writers are hung up trying to state fair as being economically fair. The definition needs to state how the process is fair to all parties. Then the economically fair argument can be added to that statement. Fair from my old Webster Dictionary includes:  
*Free from favor to or one side or the other and unbiased to all concerned.*  
*Elimination of ones feelings, prejudices, and desires to achieve a proper balance of conflicting interests.*
4. Page 3. Last Par.
  - a. As with the word fair. *Transparency* is too narrow of a definition. Everybody seems to know what it is until you try defining it.
  - b. *Transparence* needs to state that the public as well as the accused have access to all records and other information the regulators have used or prepared as part of

the enforcement issue. A list of this information and where it can be obtained must be made available to all parties.

- c. Lastly, the existing text needs to eliminate the comma in the sentence *consistent ; evidence*.
5. Page 5. Last Par.
  - a. This is an overly detailed procedure. Times change & the agency is boundary by this until it is changed. I recommend that an option be available that the regional boards can adopt alternative procedures for flexibility.
6. Page 6. Par. 2
  - a. The Class I violations list needs to be changed. Many of the Class I listed do not meet the criterial of Immediate and substantial threat to water quality....
  - b. The ones that should be eliminated are numbers 1-4, #6, 8, 9 & 10. Those listed are not an immediate or substantial to water quality. Many of the stated water quality limits are so low that large groups of individuals or organizations will be Class I violators where there is no immediate or substantial harm. Using the bogus statement that the cumulative effect of certain violations leads to a Class I needs to be eliminated. That rational is very subjective and can be unfairly applied to a violation.
7. Various location in report.
  - a. The word *bases* should be basis.
8. Page 14. 2<sup>nd</sup> to last paragraph.
  - a. The following needs to be added to this paragraph: *When using potential harm for a violation the agency must state the reason why actual harm was not used or only used in certain aspects of the calculation. In calculating potential harm all data used in such calculations shall be presented to all parties for transparency.*
9. Page 16 Last Par.
  - a. Factor 3 should be amended or another factor added to allow for the following circumstances. First, there should be a value on how soon a cleanup or abatement was started. If the discharger started immediately then that should be weighed. Next the amount of money spent for a cleanup or abatement should be a factor. If a large amount of money was spent then that should be taken into account. Lastly, the discharger should get credit if they notified the regional boards, DFW or other affected agencies immediately. Basically I consider these good faith efforts on the part of the discharger and they should be rewarded for such actions.
10. Page 18. Table 1.
  - a. I find it confusing the way the substitute numbers are put in this table. It would be more readable if the proposed numbers were complete and not partial numbers. For example, the first row replacement number should be 0.01 not 01.
11. Page 27. First Par.
  - a. The current text in Step 7 should be retained. It makes more sense than the new stuff.

I thank the Board for its time in this matter. I do not think this is much of a clarification of the enforcement action procedures. Those actions listed as Class I violations is deeply flawed and has no bearing on what is immediate and substantial harm and need major revision.

Sincerely,

Keith Hamblin