

April 4, 2017

Statewide Water Quality Enforcement Policy

Chair Marcus and Board,

Thank you for the privilege to speak to you today.

I'm Steve Jepsen, Executive Director for the Southern California Alliance of Public Owned Treatment Works (SCAP). We represent over 80 public agencies providing water and wastewater service for 19 million people in 7 counties of southern California. SCAPs members safely collect, convey, and treat 2 billion gallons of wastewater every day producing recycled water and renewable energy. This essential public service is reliably provided 24 hours a day, 7 days a week.

We greatly appreciate the opportunities members of the Board and Water Board Staff have offered for us to provide input on the proposed Enforcement Policy. While the policy has been modified slightly as a result of these meetings, much of the input about our major concerns has not been included in the latest proposed Enforcement Policy.

Our issues of greatest concern are the following elements:

High Volume per Gallon Assessment – Page 14/15

- For high volume discharges, the proposed policy changes the fine assessment from \$2 per gallon to a range of \$2 to \$10 per gallon. This will result in higher penalties when, in fact, spills have already been trending down under the current policy.
 - We recommend keeping the current maximum of \$2 per gallon for high-volume discharges.
- The definition of high volume discharges. The proposed definition of high volume discharges is from 100,000 to 2,000,000 gallons.

- We recommend adjusting the high volume discharge definition to 50,000 to 2,000,000 gallons. This would be consistent with the following State policies:
 - Water Code 13529.2(a) which stipulates a discharge of 50,000 gallons of tertiary 2.2 recycled water as a notification threshold
 - The State Water Board Order WQ 2013-0058-EXEC Amending the Monitoring and Reporting Program for the Statewide WDR, references 50,000 gallons as a threshold for requiring a SSO Technical Report and a Water Quality Sampling Plan.
 - These are two examples of legislative policy justification for a 50,000 gallon value for high volume discharges, where there is no similar justification that we are aware of for 100,000 gallons as proposed.

Degree of Culpability – Table 4, Page 17/18

- The proposed multiplier for degree of culpability is 0.75 to 1.5. The current Enforcement Policy has a range of 0.5 to 1.5. The proposed policy increases the minimum multiplier, lessening flexibility of enforcement staff to lower overall fines for agencies that have a history of excellent performance.
 - We recommend no change to the existing policy, keeping the degree of culpability multiplier range of 0.5 to 1.5.

In summary the Proposed Enforcement Policy increases fines on one end and reduces the avenue for providing fine relief for high performers at the other end.

I want to emphasize that many of SCAPs members have invested millions of dollars in capital projects to provide: multiple levels of redundancy at pump stations, dual parallel forcemains, and maintenance equipment to prevent spills, contain spills and clean up spills. SCAPs larger member agencies donate staff with expertise, training facilities and programs, and equipment to help smaller agencies, with less funding, prevent and respond to spills.

SCAP has 6 different technical committees that are chaired by volunteers from the larger member agencies

In our high performing member agencies, the elected officials, the managers and the operators all pride themselves on being the best in the business, competing annually for local and State awards of excellence. Performance and professionalism in the water/wastewater public agency sector has never been better.

On behalf of these agencies we are asking that the Board does not approve the proposed Enforcement Policy as it is currently written. We think the Board should carefully consider what kind of message it wants to send.