



February 2, 2017

Ms. Felicia Marcus, Chair
 State Water Resources Control Board
 P.O. Box 100
 Sacramento, CA 95812-0100



Attn: Jeanine Townsend, Clerk to the Board
 Via email: commentletters@waterboards.ca.gov

Subject: Comment Letter – Variance Policy – Scoping Comments

Dear Ms. Marcus,

The San Francisco Public Utilities Commission (SFPUC) appreciates the opportunity to comment on the scope and content of the State Water Resources Control Board’s proposed Variance Policy. We support the issuance of this policy which will clarify the applicability of the EPA variance regulations to situations in California to protect our waters while recognizing site-specific conditions.

To ensure that this initiative is useful to permittees, we request that the scope of the Variance Policy include (1) clarifying the use of variances in California with existing exceptions; (2) ensuring that the Water Quality Enforcement Policy does not conflict with the Variance Policy; (3) determining how variances align with TMDL processes; and (4) identifying the requirements for a successful variance petition.

1. *Clarifying the use of variances in California with existing exceptions.* The Variance Policy should clarify the relationship of variances and the existing exceptions included in water quality plans or NPDES permits (e.g., Basin Plans and the SIP Section 5).

The SFPUC has exceptions to both the San Francisco Bay Basin Plan and the Ocean Plan which were approved consistent with the rules for exceptions in these plans. We recommend that adoption of the EPA variance policy into the State-wide plans allows the current exceptions and variances to continue consistent with both Federal and State requirements. If the adoption of this Federal variance policy is intended to take precedence over or replace the exception provisions that now exist and have been adopted in permits, we request that the Variance Policy provide either a grandfather clause to continue existing exceptions, or a streamlined procedure to quickly readopt existing exceptions.

2. *Ensuring the Water Quality Enforcement Policy does not conflict with the Variance Policy.* We recommend that the scope of the Variance Policy include an analysis of the Water Quality Enforcement Policy to ensure that there is no conflict. Changes to the Water Quality Enforcement Policy should be

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recommended as needed to ensure it supports the goals, objectives, and terms of the Variance Policy.

3. *Determining how Variances align with TMDL processes:* Often TMDLs and have long implementation schedules, with full compliance anticipated to be many years in the future. We request that the Variance Policy scope include a determination of what role variances should play in the TMDL process.
4. *Identifying the Requirements for a Variance Petition.* We request that the Variance Policy make clear the requirements (including analyses and supporting material) to request and gain approval of a variance. As an example, a streamlined approach has been developed in the Central Valley for variances allowed under that Basin Plan; we recommend that such an approach be adopted by the Variance Policy to be more efficient for stakeholders.

Thank you for consideration of these issues. We also want to thank your staff for holding the January 23rd scoping meeting in Sacramento which was very informative and helpful. We appreciate the effort by your staff to prepare the presentation and respond to follow-up questions.

If you have any questions or concerns, please do not hesitate to contact my staff member, Laura Pagano, at 415-554-3109 or lpagano@sfgwater.org.

Sincerely,



Tommy T. Moala
SFPUC Assistant General Manager
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