

TO: Matt St. John, Executive Officer, and the Board Members of the North Coast Regional Water Quality Control Board

RE: TMDL 2014

California Assembly Bill No. 685 approved by Secretary of State, September 25, 2012

*Existing law establishes various state water policies, including the policy that the use of **water for domestic purposes is the highest use of water.***

Section 106.3 (a) It is hereby declared to be the established policy of the state that every human being has the right to safe, clean affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

*(b) All relevant state agencies, including (the State Water Resources Control Board) **shall consider this state policy** when revising, adopting, or establishing policies, regulations, and grant criteria when those policies, regulations, and criteria are pertinent to the use of water described in this section.*

“What’s the highest use of water in upper Elk River?” asked Elk River residents in 2013.

“I don’t know,” responded the Executive Officer of the North Coast Regional Water Quality Control Board.

What part of Assembly Bill No. 685 is too difficult to understand; the part that’s too difficult to honor? This Board’s persistent policy of privileging pollution at the expense of safe domestic water for Elk River inhabitants, violates more than AB 685 and your own agency’s mission: it violates our rights as Americans.

While we residents have sincerely been working with you and our polluting neighbors to resolve this perennial conflict of rights vs. privileges, your agency works in the shadows to fabricate even more exemptions, exclusions, and avoidances of duties. Your legal counsel inveigled us to stop complaining about being invaded by government-sponsored pollution, and said, “C’mon, give timber a clean slate.” Does that mean all of us can avoid responsibility for our legacies of failure and pain, by merely confessing our sins and requesting forgiveness? Or, is only timber entitled to receive that sacrament?

To justify its perverse policies of deliberately injuring scores of families and an entire watershed, North Coast Board relies on the tortured data of industry hack scientists. Despite your technical staff’s years of detailed research, this Board always ignores their analyses. The same unassailable conclusion is reached year after year after year: the sole domestic water supply of Elk River residents is severely impaired by timber harvest activities. A moratorium on timber equals relief, repair, and restoration.

The North Coast Water Quality agency has no mandate to pollute and injure, so why aren’t you regulating these timber activities to protect water, instead? Why isn’t the responsible landowner required to repair and restore? If he’s not competent to clean up the mess he deliberately makes, then he’s not competent enough to be authorized to engage in messy activities. Who will pay the price to clean up his mess? His neighbors? The taxpayers? Your grandchildren?

It might be defensible if your hands were tied by the constraints of your duties; instead, NCRWQCB's integrity has been **captured** by the very industry it was intended to regulate.

To ensure the goals of capitalism, you desecrate democracy. NCRWQCB is asserting this lamebrain idea of deliberately injuring already wounded people and a severely impaired river. Bizarrely relying on pseudo-science and a prayer, this Board declares that this severely impaired watershed will heal with persistent preventable pollution. Sure, snuff your cigarettes out on top of that festering, 2nd degree burn. As long as the legacy burn looks nastier than the new one, you can proclaim: "See, it's better than it was!" Idiots will cheerfully agree.

This TMDL is both a sham and an insult. The TMDL's inherent premise is that pre-selected residents **must suffer** some threshold of injury to facilitate the feeble business of our privileged neighbors. NCRWQCB then actually quantifies the residents' daily load of deliberate injury! It's frightening to see that even in a democracy, powerless citizens can be forced to function as collateral damage for the personal profits of a few. It's also difficult to imagine NCRWQCB's justification for such an atrocity because this agency refuses to provide any rational basis. This is such a blatant 14th Amendment Takings of our property and a devious assault of our equal protections as Americans.

There is no Legislative Intent to explain why a public agency entrusted to protect the health and safety of us citizens would intentionally destroy our homes, pollute our water supply, and this river. Even Wes Chesbro, the chairman of the Natural Resources Committee that directs NCRWQCB, can't justify these government-authorized injuries to pre-selected citizens in Elk River. To avoid confronting this environmental injustice, he has refused to meet with his Elk River constituents for close to three years. His fear of a few insignificant residents speaks volumes about his collusion in this agency's malfeasance.

Former Deputy Director of Water Quality, Jonathan Bishop, summed up this agency's inability to perform its mandated duties. He told us that if NCRWQCB tried to enforce restrictions on pollution from timber harvest in Elk River, that the "governor would come over here and punch my face!" Mr. Bishop also warned us that if we thought timber was bad, just try to stop Big Ag!! How prescient he was; now we have tons of raw feces added to our impaired water supply, thanks to NCRWQCB's powerlessness in just saying, "No!" to bullies.

Rather than perform your mandated duties to protect our water supplies from preventable feces and sediment pollution, you graciously advise us to purchase outrageously unaffordable water treatment systems to sanitize these special neighbors' wastes. This is contamination that YOU deliberately authorized! Would you also advise us to purchase amphibious vehicles so that we can survive the killer floods that you likewise authorized? Rather disturbingly, NCRWQCB's behavior mirrors all those "good Germans" who were just following orders.

Why aren't repair and/or replacement of our impaired water supplies the issue for NCRWQCB? Why aren't you discussing a plan for polluters to clean up the legacy mess they made BEFORE they're privileged to make even more? In a civilized society,

competent adults are held accountable for the consequences of all of their actions. Last I looked, those big men who work so hard in big timber, are all over the age of 18.

This unholy partnership between NCRWQCB and the timber industry has elevated capitalism over democracy. If this public agency believes in the righteousness of authorizing pollution then it must follow legal processes to ensure equal protection. Conduct an Anti-Degradation Hearing. Conduct proper Eminent Domain procedures. Stop resisting the ugly truth: in upper Elk River, residents cannot coexist with industrial timber and cattle sewage. NCRWQCB is responsible for maintaining this abusive relationship.

If this timber industry was honestly sustainable, it could operate without violating both the watershed and the people who live here. A respectable timber industry wouldn't need Water Quality's blessings or the TMDL. Given the indulgence of two decades to get it right, our timber neighbors still can't operate a viable business unless you authorize them to invade and occupy both public and private properties.

Instead of being grateful for such extraordinary business advantages, HRC's Mike Jani laughs about the wounded residents in Elk River and refers to timber harvest here as "working in a war zone." It's no mystery which invading and occupying "army" started this war. It's no mystery who backs this invading army.

Our industrial neighbors are insisting they be given a privilege *to cause us damage* while we residents are demanding the right *to not be damaged* by this privilege! This Board has all the credible data it needs, but no courage, to uphold its sworn duties to protect water quality in Elk River. Any degradation of our human water supply is unconscionable, unless your conscious is wrapped up in pleasing your handlers.

Zero discharge is the only moral, legal, and scientifically sound TMDL to be adopted in this battered watershed. No credible scientist or honorable citizen will say otherwise. Unless you Board members fall into either one of those categories, let those who do reach the moral conclusions. This current governor just signed AB 685 (The Human Right to Safe Water), so I doubt that you still need to fear that he will punch your face for doing your job.

I implore you to demonstrate just how wrong my understanding of this situation is. It would be a great relief to trust my public trust agency. Show me how democracy includes a category of "less than significant people," not entitled to Constitutional rights. Show me that timber harvesters and defecators are on that list of adults who society excuses from the consequences of their bad behavior. Show me how the public benefits when you authorize pollution of certain domestic water supplies. If you could, you would have long ago. Unfortunately, the more I know, the more revolting I find the actions of NCRWQCB.

As you have told us: "It's not personal; it's not about you." Of course not; you've de-humanized us. It's your personal decision to circumvent the laws to enable psychopathic polluters. When this Board selected my family and my neighbors' families to personally sacrifice our homes and our rights, it definitely got real personal for us.

JUST DO THE RIGHT THING; protect water quality and end this war in Elk River.

Sincerely,
Stephanie B. Noell