

SUBJECT: Enforcement Policy Public Outreach Audience Q&A from March 4, 2019.

Introduction

The Q&A summary is not verbatim, but they capture the essence of the subject. Two State Water Board Staff responded to questions during this webcast. There were a few questions that both Staff responded to. The Staff responders are distinguished by a (1) or a (2). (1) indicates the first Staff responder and (2) indicates the second Staff responder to a specific question. The (1) and (2) are not assigned to specific staff and only indicate that both speakers responded to a question.

Questions from the public:

Question: *I would like to see clear instructional how-to manuals written with a good glossary of terms not legalese.*

State Water Board staff response: That is really good input. I think for our enforcement policy we can refer to the legal, to the Water Code and the Code of Regulations. But we will definitely take that into account. That is a really good comment. We want something that is a usable policy, where people can pick it up and read it and not necessarily have an advanced degree to understand what is in there.

Question: *What happens if an illegal dam on an already fully appropriated watershed breaches-affects a licensed dam below it, filling it with silt or causing dam failure?*

State Water Board staff response: Today we are really here to talk about the overarching enforcement policy and some of the elements you would like to see in an Enforcement Policy. This question is more of a situational question. We would really be happy to have one of our enforcement staff follow up with you specifically on this type of situation. This is the exact type of thing that we normally have come in through our complaint process. It is very common, and we will get a lot of our activities that are results of folks like you submitting things on our complaint portal online. I do thank you for bringing that up. And what we really want to hear from you is like what was on the slide during the presentation, regarding all the different things we can include in our enforcement policy like how to prioritize those complaints that come in. That is a big part of what we could put in the policy to help us prioritize. We would like your help with how to do that.

Question: *Water Boards already has a Public Trust program and policy (e.g., Instream Flow Studies for the Protection of Public Trust Resources: A Prioritized...) but Water Rights uses it as a door mat. How are you intending to address that??*

State Water Board staff (1) response: What we are trying to do is come up with an overarching broad Water Rights Enforcement Policy that can serve as a guideline so that as we are getting these various complaints through different channels, as we are having all the different puzzle pieces that were mentioned in the presentation, that we are able to take all of those programmatic elements, and that we are able to put them in one place so that folks can see how we prioritize work for water rights enforcement. We do have a Water Quality Enforcement Policy here at the board, but we do not have a water rights specific policy, so this is something we are looking at doing.

State Water Board staff (2) response:

If public trust resources are important to you and you feel very strongly than I encourage you to submit some feedback regarding how prioritization could take into account public trust resources or how our penalties could take into account impact to harm or public trust resources. Those are a few ways that you could get involved with the development of the Policy and help strengthen enforcement efforts regarding public trust resources.

State Water Board staff (1) response: In addition to that, if there are other policies that we already have as a division, if you have thoughts of how these policies could interact with each other we would really like to hear that as well.

Question: *Don't you think that having the March 11 meeting webcasted is important for transparency? Is there a draft, or proposed, Water Rights Enforcement Policy?*

State Water Board staff (1) response: We did have our meeting on March 1st webcasted, this meeting was webcasted, we will be posting the slides from the presentation online, and we don't currently have a draft of the actual proposed enforcement policy at this time. This is an early scoping meeting today, so we are really just looking for your early input. Whether you attend one of these sessions or not we still welcome you to submit any comments that you have on the general types of things you would like to see included in a water rights enforcement policy.

State Water Board staff (2) response: The March 11th meeting is located at the Central Valley Regional Water Quality Control Board's Fresno Office. It is open to the public. I believe the room has about a capacity of about 100 people, so we encourage anyone interested to come out to join. We will provide a transcript of the questions that were submitted from the public from all of our outreach meetings. That includes the March 1st meeting, today's meeting, and the March 11th meeting in Fresno.

Comment: *one reason a license holder may not come forward is fear of reprisal from the offender who may be notified of who made the complaint*

State Water Board staff response: We do have an enforcement portal. We have an online complaint portal where things come into our enforcement. You are able to submit an anonymous complaint. Sometimes those are a little bit more difficult to follow up on if we don't have a contact, but we do have that avenue available as well. This is a bit off topic of our Proposed Enforcement Policy, but I do appreciate the interaction with folks and learning a little bit more about our enforcement.

Question: *Can you show the timeline slide again?*

State Water Board staff (1) response: Yes let's go back to the timeline slide again that is worth putting up for a little bit.

State Water Board staff (2) response: So again this is our proposed timeline. We hope to have a Draft Enforcement Policy available this fall. At which time, when it is available we will be releasing that to the public and looking for more specific comments from stakeholders, the public, and interested parties.

State Water Board staff (1) response: Also, just to reinforce that today we are looking for overall comments and thoughts from you. This is an early scoping session, so we don't have a current draft of the policy for you to comment on at this time. We are really just trying to throw out some big picture ideas. Get some initial feedback and there will be an entire additional chance to look at a draft and comment on that as well.

State Water Board staff (2) response: And the presentation will be available on the website. This presentation as well as the webcast presentation from last Friday which was March 1, 2019.

Question: *What kinds of incentives are you considering to encourage compliance or address reasons why folks will be hesitant to come forward?*

State Water Board staff response: This is exactly the type of question that we want to turn around and ask all of you to give us some ideas. We are in the scoping process right now so we have not put pen to paper yet. We are all ears about what type of incentives that you would like to see. I know that in general at the State Water Board, there are a variety of different programs, not just Water Rights Enforcement but other types of enforcement and other programs that we deal a lot with compliance, compliance assistance, encouraging people to come forward to get registered, and we do have a very robust outreach program where we do go out into watersheds and help people come into compliance. I want to turn the question back to you to see what type of incentives you would like to see to encourage compliance assistance.

Question: *How will changes in enforcement policy impact investigations into corporate water rights complaints, i.e. the investigation into Nestle Waters in San Bernardino.*

State Water Board staff response: We are not able to get into details on that at this time, but I do think that this is another element of something that could be included in an enforcement policy in terms of how things come to us. We get complaints, we'll be doing investigations and we will be using information we get from investigations to bring cases forward. Again, this is another area where we would like to get your help in how to prioritize such things. Like I said, we don't have a draft of the policy at this time, so it would be hard to get into specific questions.

Question: *Is there any new regulations going into effect for watershed?*

State Water Board staff (1) response: An Enforcement Policy will not create any new requirements for diverters.

State Water Board staff (2) response: It simply gives guidance and guidelines for the types of things that we consider in doing enforcement. Think of it as much more of a broad policy.

Question: *Can you introduce yourself?*

State Water Board staff response: The speakers are Skyler Anderson – Senior Environmental Scientist within the Division of Water Rights and Jule Rizzardo - Permitting and Enforcement Branch Chief within Division of Water Rights.

Question: *What would compliance assistance look like?*

State Water Board staff response: Compliance assistance is really about the Division of Water Rights Enforcement Section being here and available to the public to help you understand how to comply with our regulations. Whether it is something specific to your water right we encourage you to contact us directly. Our goal is compliance and if we can do that through education and outreach that is the preferred method to achieve compliance.

Question: *What is the definition of Pueblo water rights?*

State Water Board staff response: Pueblo water rights really date back to California's transition from Mexican to American territory back in 1848. And at that time the Pueblo water rights were the first to receive that legal recognition in our state. Today, some of the California cities that we are familiar with are successors of these Spanish or Mexican Pueblos and they hold some municipal rights. If you have future follow up, we would be happy to answer anything more specific. We do have a different person who is on our phone duty each day in Division of Water Rights and these are the types of things that we commonly help the public with.

Question: *Would the penalties collected be placed in some sort of a separate fund?*

State Water Board staff response: The way that the penalties work in terms of the water rights penalties, those penalties do currently get placed in separate fund. That is how we are structured here at the State Water Board. Again, that doesn't necessarily relate to the policy itself that we are talking about, but we do appreciate the question.

Question: *Can you share the link for the reporting portal please?*

State Water Board staff response: For this webcast we don't have the ability to bring up the link right now, I do encourage you to contact our Phone Duty line (916) 341-5300. If you ask them to send you a link, just give them your email address and they will provide you a link.

State Water Board staff (2) response: You could be talking about the SB-88 measuring and monitoring requirements page (https://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/water_measurement.html) or the page to report your water rights information, your annual water rights reporting page (<https://rms.waterboards.ca.gov/login.aspx>). Either way we will put both links on there so that you can see. 'Tis the season for water rights reporting.

We are also archiving these questions and if you are online right now, and you have seen questions that are disappearing, they will be available later and you will see the answers. Right now, to easily see questions that are coming in and to make sure that we are addressing the questions, we are temporarily putting them aside, but we will make them available to you later.

Question: *Is there a way to get a PDF of you slide presentation as well please?*

State Water Board staff response: Once we finish the Fresno meeting, we will have the presentation uploaded to the webpage. We will wait till we have concluded all of our outreach videos before we provide the PDF of the slideshow. One thing to note, a PDF will not have the animations of the slideshow so it could look a little differently than watching the presentation live. If something is not looking correct in the PDF, I encourage you to watch the previously recorded webcast meetings.

Comment: *In order to formulate useful comments, it would be helpful to have an overview of how enforcement is done currently --how priorities are set, what actions . . .*

State Water Board staff response: So currently the closest thing to that is the one slide in the presentation with the brightly colored icons of all the different ways enforcement information comes to us as a Division. We did talk about how it is very complaint driven. We have a lot of complaints that come into our system. So, can we go back to the slide real quick. The slide really lays out all the different types of activities that we do. We have completed more than 5,000 investigations since 2010. Those

investigations are the result of all these different things that you see on this slide. This is exactly why we are asking for your help in prioritizing these activities. With more than 5,000 investigations that is a very large number and we don't have nearly have enough staff to do all these types of investigations at the same time. We do need to prioritize, and we are definitely looking for your help in that area. Even in a specific area, say complaints, we would like your feedback on what types of complaints you would like to see prioritized.

Can we go back to the polling question where we asked people what the proposed policy element that would be most important is? This is where we are asking you to pick one, the most important policy element to you. We gave you a couple categories here. There were 23 people that responded. Statewide, regional, and program priorities came in at top at 35% of you. Prioritization of investigations and enforcement cases came in at 30% which is a close 2nd. Some of the questions that we got today has hinted at that how do you prioritize question. Framework for calculating monetary penalties was at 17%. This isn't your only chance to comment, just some very early outreach before we put some pen to paper with the draft policy.

The next poll asked, "I would like to see water rights enforcement focus more on [insert response]". 48% said protection of public resources, 30% said protection of the water rights priority system. This is pretty inline with what we saw on Friday as well.

Question: *can you repeat that phone number please? 916-341-????*

State Water Board staff response: (916) 341-5300

Question: *Do you recommend putting water meter on a pond that is collecting watershed?*

State Water Board staff response: If your diversion is larger than 10 acre-feet, I recommend you meter your water per the frequency requirements for Senate Bill 88 (SB-88) which are the measurement and reporting regulations.

State Water Board staff response (2): We do have a webpage for that, for the Senate Bill 88 reporting and measurement regulations. We will be happy to post that to that individual questions. We will provide a link so that you can go to the webpage and find our additional resources. (Link to SB-88 Compliance Webpage:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/water_measurement.html)