

**From:** Kristi Turner <kristi\_turner@dot.ca.gov>  
**To:** <HLundborg@waterboards.ca.gov>  
**Date:** 9/12/2011 12:48 PM  
**Subject:** Fw: Draft Editorial Basin Plan Amendment Ch 2- Beneficial Uses clean copy

Holly,

I am sorry I am so late in making this comment but there is a glaring absence on the bottom of page 10: Section 2.4.2.1 Rivers and Streams. You fail to list Domestic Source of Water. All over Humboldt County and many other counties in the North Coast Region residents have to take their water from the river, always have and will for many years to come. Leaving Domestic Source out does a great disservice to those of us in the rural areas. We desperately need that kind of protection where the river has been and is the only available source of domestic water.

I think it should read "drinkable/fishable/swimmable". I know you probably don't want to do that but where are we rural residents to turn...you just give the upper hand to land resource exploiters. Help! We need protection when the river is a long standing source of domestic water, especially when the only other sources are rainwater and delivered water.

Thank you,  
Kristi Wrigley

aka Kristi Turner  
Transportation Surveyor  
RW Engineering District 1  
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September 19 2011

Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

Donald Coates  
5550 Skylane Blvd.  
Santa Rosa, CA 95403

Re: Draft Editorial Amendment to Chapter 2 – Beneficial Uses

Dear Ms. Townsend and Mr. Coates:

As a taxpayer in the state of California I have concerns relating to Chapter 2's rewrite as presented. The proposed chapter changes are nothing more than a unilateral power grab that appears to exceed SWRCB's authority and is unjustified and unnecessary. "*The Regional Water Board reserves the right to balance the values and priorities of competing beneficial uses.*" totally ignores the complex interdependencies of the beneficial use requirements one has as it relates to their water rights and the obligation imposed by those rights be they appropriated, adjudicated, riparian or by license. This is another blatant attempt to circumvent the State's water rights laws. Their appears to be a pattern by SWRCB to incrementally rejigger and ignore historical water law for a new concept built around a notion, be it reasonable vs. unreasonable<sup>1</sup> use, TMDL's, or this one of re-prioritizing beneficial uses that ignores the Rule of law for an ideological environmental ideal and agenda. Environmentalism has historically benefited from a free ride and a general lack of accountability for its effects on the general economy and specifically the state of California's economy, but those days are over. SWRCB should have a legislative review to address how their regulations and interpretations have and will affect the State economy. There is no criteria presented on establishing beneficial use priorities, under what circumstances, or who and how they will be established, implemented and their subsequent repercussions. Also there was nothing on what recourse one has if one disagrees with the reprioritizations. There was nothing mentioned about compensation for any take actions caused by reprioritizations.

The idea that "*The beneficial uses of any specifically identified waterbody generally apply to all its tributaries.*" is another misconception and a double standard. When or if beneficial uses are modified they need to be established under the same requirements imposed by all the other state governmental agencies including yourselves in that they are

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<sup>1</sup> This is where SWRCB fabricated a problem that puts hundreds of millions of dollars at risk for a \$1,550.00 issue. (31 wild pacific Coho at 10lb X \$4.99 lb currently at Costco)

site specific, and not watershed wide as you have proposed in this chapter 2 change. You do not get it both ways.

What this really looks like is someone implementing the first portion of the unapproved U.N. Agenda 21 *“this will require reorientation of existing production and consumption patterns that have developed in industrial societies”* and the second portion yet to be implemented would be *“Without the stimulus of prices and market signals that make clear to producers and consumers the environmental costs of the consumption of energy, materials and natural resources and the generation of wastes, significant changes in consumption and production patterns seem unlikely to occur in the near future.”* How soon are you planning to charge for water? What will it cost? Will sport and commercial fishermen have to pay for each fish they kill just like lumber companies have to pay for each tree they cut of government timber?

The tone and intent of the chapter 2 rewrite changes considerably when terms like “designated use” is switched to “beneficial use” and “criteria” is switched to “objective” all leading to a degree of murkiness as to SWRCB’s true intent. The use of the “higher authority” mantra to justify the proposed changes where the SWRCB has no obligation to impose requirements that these “higher authorities” have not them selves impose, is an over reach of SWRCB’s authority too.

The “Amendment Chapter 2” is really not an amendment at all, but is a complete rewrite of Chapter 2 and the revisions are not just editorial, rather they are substantive in nature. Given the substantive nature of this Chapter 2 rewrite to give SWRCB’s the unilateral authority to re-prioritize **ALL** the listed, or yet unknown unlisted beneficial uses would require several reports, reviews and assessments that were not included as part of this “editorial amendment”. First, there was not the slightest attention given to how the repercussions of your actions will reverberate throughout the State’s economy. And to avoid economic havoc to the State, an Economic Impact Report (EIR) prepared by the State controller or Treasures office, to perform a cost benefit analysis and to quantify any adverse affects to the State, each County, each school and fire district, any other agency or group affected by any potential reductions in property values and the subsequent property tax revenue reductions. Second, quantifications relating to any shift or reduction in employment and/or increase in unemployment attributable to any beneficial use reprioritizations. This would include estimates of the number of people affected, projected length of unemployment, prospects on retraining and rehiring, employment prospects in their current areas, unemployment costs including extensions and any repayment of funds to the federal government. Third, any adverse affect to the State and each County by economic reductions affecting personal and business income taxes caused as a direct result of re-prioritizing one or any combination of the current twenty-eight (28) beneficial uses. Fourth, the potential number and magnitude of business, enterprises, and individuals forced into bankruptcy or loan defaults would need to be quantified and addressed as a direct result of SWRCB’s reprioritizations. Fifth, if any one or any combination of the current twenty-eight (28) beneficial uses would cause a redistribution of any tax obligations to another group or to cause any additional tax increases, then those potential tax increases need to be identified and quantified and then

a 2/3 majority vote would be required before any re-reprioritization of beneficial uses could be implemented. Sixth, there was no environmental impact report (eir<sup>2</sup>) listing any potential or proposed changes caused by any reprioritization of beneficial uses. What harmful impacts these reprioritizations would or could cause the current environment under any combination of the various twenty-eight (28) listed beneficial uses was not presented. Any reprioritization by SWRCB needs a public forum for public comment and review to fully assess any adverse affects that might cause harm to any currently listed endangered or threatened species along with their potential fiscal impacts to the State. Seventh, in some cases the Courts would also need to give prior approval to any proposed reprioritizations of beneficial uses to ensure a fair and impartial review of any redistribution and subsequent reallocation of water rights be they appropriated, adjudicated, riparian or by license and to asses if a take has occurred and what that will cost. Any take costs should be a direct reduction to SWRCB's current budget.

SWRCB's idea that one retains their water rights on the one hand and not be allowed to exercise that water right on the other is another example of misconceptual and delusional thinking. SWRCB's Russian River frost protections scheme is just such an example, where one is told frost protection is a beneficial use but one will not be able to use water in that manner, during the time when it is needed for that purpose. This is the same as not having a water right and has the effect of a regulatory taking. Following SWRCB's logic, if over time the water is not used for frost protection then it must be being used for anadromous fish, or wildlife habitat, or water quality enhancement, etc. and therefore it should be rededicated for instream beneficial use, where one would still have their water rights but no water. The same scenario could just as easily apply to the proposed chapter 2 changes, where one is forbidden to use their water rights because their water rights have been reprioritized to a lower priority and therefore by not being able to exercise ones water rights one loses the right to exercise that water right. What has happened to the water right premise that first in time is first in right?

Because this is a regional water quality control plan predicated on the reprioritizations of beneficial uses, Water Code 13141 would apply *"State policy for water quality control adopted or revised in accordance with the provisions of this article, and regional water quality control plans approved or revised in accordance with Section 13245, shall become a part of the California Water Plan effective when such state policy for water quality control, and such regional water quality control plans have been reported to the Legislature at any session thereof.*

*However, prior to implementation of any agricultural water quality control program, an estimate of the total cost of such a program, together with an identification of potential sources of financing, shall be indicated in any regional water quality control plan."*

Every time agricultural waters beneficial uses are reprioritized that would trigger, each time, a new agricultural water quality control program.

To make sure that SWRCB's moral adventures are recognized and to keep the State from any more potential economic harm it causes its self, I have taken the liberty to share my concerns with legislators and the Governor so your "good" works will get the credit they deserves.

Thank you

T. Connick