

From: [David S. Kossack, Ph. D.](#)
To: [WB-DWR-WREnforcementPolicy;](#) [REDACTED]
Cc: [REDACTED]
Subject: Comments, Proposed Water Rights Enforcement Policy...
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Water Rights' Proposed Water Rights Enforcement Policy

We would appreciate an acknowledgment of receiving our email...

Here are our observations and concerns with Water Rights Enforcement and the present Proposed Water Rights Enforcement Policy:

Water Rights Enforcement has made it very clear over the years that they could care less about getting water from unpermitted diversions back into the creek, especially for something like fish and wildlife. We see nothing here that changes that...

Enforcement is not and cannot be discretionary. The Enforcement's priority simply needs to be: **if you don't have a valid permit (or riparian) then you can not divert water from the creek.** The burden cannot be dumped back on those that file a complaint because WR says "...oh, we don't have any money" or "there's a drought, we aren't working any complaints" or "they won't like us/will beat us up".

Too often 'priorities' within any agency are simply used to protect their friends, and their friends attorneys, that come to visit and sit on the corner of their desks... We have no interest in creating another rabbit-hole for enforcement staff to disappear into when they are presented with another diversion which inconveniently uses water outside the watershed and has no permit.

In the March 4th webcaast Jule Rizzardo stated that the questions & answers from the March 11 meeting in Fresno would be posted with the March 1 & 4 webcasts. There was no webcast from this meeting and there is no material from the Fresno, March 11 meeting posted at the Proposed Water Rights Enforcement Policy. There is a lack of transparency in the Proposed Water Rights Enforcement Policy process.

Water Rights has not presented their existing enforcement priorities and/or process for addressing complaints and unpermitted diversion. It is a necessary 1st step... why isn't the existing set of priorities working now?

Water is important wherever it is in California. While prioritizing certain watersheds and impacts is important it cannot be at the expense of the basic implementation of enforcement priorities in all watersheds...

- It is a dangerous trap to play "my watershed is better than your watershed", or
- let WR whipsaw protection of public trust resources with a "we will take care of it someplace else", which then becomes a, "...not being taken care of anywhere..."

- We can't let a WR prioritizing strategy pull the carpet out from under important fish and wildlife protection, beneficial uses that have no voice.

(CA)ESA listing and particularly critical habitat; Coastal Commission ESHA; and Fish Passage and similar regulations need to trigger a timeliness in enforcement and increased rigor. CADFW, NMFS and/or USFWS need to be able to identify watersheds, fish and wildlife resources and/or specific complaints that require increased effort, in a manner that becomes part of the public record, without being at the expense of complaints in other watersheds.

Your webcasts suggest that WR will use public trust resources to prioritize enforcement. We feel that this a bit disingenuous when Enforcement currently treats impacts to public trust resources as a doormat:

You recently referred staff to a December 2010 report by the State Water Board [[Instream Flow Studies for the Protection of Public Trust Resources](#)] that listed San Vicente Creek among various streams that were identified as a high priority for conducting instream flow studies. While COMP-36101 did not include any allegations of harm to public trust resources, we interpret the reference as a renewal of your previous allegations of harm on San Vicente Creek. However, in response to your complaint in 2015 (COMP-44400), Division staff contacted the National Oceanic and Atmospheric Administration Fisheries and California Department of Fish and Wildlife and neither agency identified any fishery concerns related to the subject diversion. The Division closed COMP-44400 for lack of evidence to support the allegation and your reference to the 2010 report provides no new information for the Division to consider.

In the webcasts, the selected polling preference of 'prioritizing complaints and enforcement means implementation and application of enforcement', not shuffling paper...

We are concerned that WR is presenting Pueblo, prescriptive, reserved and pre-1914 water rights out of context and without definition (e.g., Welcome to the Water Rights Enforcement Policy Proposal Presentation, pg 8). WR's graphic in their webcasts suggest that these "water rights" are equally accessible, and arguable, as contemporary appropriations and riparian rights. We feel that it would benefit Water Rights' policies in general if they put these "water rights" in their proper perspective.

Water Rights' Enforcement holds themselves in rather high esteem (e.g., the comment "Enforcement so far has been moderately paced, reasonably escalated, well-communicated. Will the pace of enforcement increase?" and the shout out, "Enforcement is doing an excellent job") but we don't think this is a realistic assessment.

Thank you for this opportunity to comment on Water Boards Proposed Water Rights Enforcement Policy.