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via electronic and U.S. mail

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**SUBJECT: US EPA DRAFT WATERSHED-BASED PERMITTING
IMPLEMENTATION GUIDANCE**

I am writing on behalf of Tri-TAC, a California organization of local public agencies responsible for wastewater collection, treatment, disposal and reclamation. Tri-TAC is an advisory group including representatives of the California Association of Sanitation Agencies, the California Water Environment Association, and the League of California Cities. The constituent agencies of Tri-TAC serve most of the sewered population of California.

Tri-TAC members operate under individual NPDES permits and/or a variety of general NPDES permits. Most of our members are single purpose sanitation and sanitary districts; however, some of our members are municipalities responsible for wastewater, stormwater, and other activities subject to an NPDES permitting authority. EPA's Watershed-Based NPDES Permitting Policy Statement and subsequent Watershed-Based NPDES Permitting Implementation Guidance (August 2003 Draft) are of interest to Tri-TAC members due to the potential for significant impacts to future permits including effluent limitations and monitoring and reporting programs.

Tri-TAC members support the purpose of the guidance to conduct a holistic watershed management approach resulting in the issuance of "NPDES permits that consider the entire watershed, not just an individual point source discharger." This is an area of great concern to Tri-TAC members who frequently experience a disconnect between local water quality standards and actual water quality conditions. Despite substantial gains in water quality, the nation faces the

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prospect of tens of thousands of TMDLs due to waters listed as impaired. This is due in no small part to the legacy of designated uses which were applied on an assumed basis, under the tributary rule, or without a proper vetting against water quality criteria necessary to protect those uses.

A watershed-based permitting approach will help to establish baseline information useful in determining and reviewing uses, establishing water quality criteria, conducting TMDLs, and controlling sources of pollutants. As discussed in the guidance, this approach creates both opportunities and challenges for permitting authorities, permittees, nonpoint sources of pollution, and other interested stakeholders. The following are issues for your consideration as you move forward in the implementation of watershed-based permitting, especially in the drafting of future technical guidance documents.

1. **Implementation of watershed-based monitoring programs:** A number of Tri-TAC members are participants in group and watershed-based monitoring programs. These efforts may be operated as single programs sponsored by multiple agencies to cover a specific water body or watershed or as individual monitoring programs coordinated to provide watershed-wide data collection. There are enormous hurdles to overcome to make these efforts useful to the purposes identified in the draft policy statement.

In order to integrate individual monitoring programs into a watershed-based effort, the programs must carefully consider program design, testing methodologies, levels of detection, inter-laboratory calibration, collection and dissemination of data, and other minimum factors required to provide a meaningful data set necessary to achieve the watershed goals. These efforts should not be discounted in terms of the cost or effort to achieve success.

Further complicating this approach is the real presence of data gaps and the costs to fill them. Many dischargers, especially from smaller public agencies, conduct limited receiving water monitoring. And since the location of dischargers within a given watershed is more likely to be associated with land use types rather than designated uses, many watersheds will not provide a sufficient number or distribution of dischargers necessary to establish a watershed monitoring program based on a coordination of existing monitoring programs. The permitting authority or others will need to design a watershed-based monitoring program and evaluate available resources before committing to this approach.

Once a monitoring program is established, the NPDES permitting authority must be ready to receive and evaluate the data generated through the program. Currently POTWs in California generate significant amounts of receiving water data which is provided to the permitting authority through monthly and annual monitoring reports as well as numerous special studies. Dischargers were surprised to find during recent impaired water listing efforts by the state that previously submitted information was not necessarily under consideration in evaluating water bodies unless it was submitted separately for that identified purpose. The permitting authorities must establish a means to receive and review the data for all of the planned and reasonable uses for which the data was generated. Electronic databases and information access can be quite useful for this type of program.

Watershed-based monitoring is an opportunity to focus efforts on answering the important questions about local water quality, and it is also an opportunity to avoid unnecessary and repetitive monitoring. In order to provide an incentive to adopt this approach, EPA should provide guidance to the permitting authorities on how to reduce and eliminate unnecessary monitoring including influent, effluent and receiving monitoring for undetected and banned constituents or statistically unimportant monitoring. This will provide an additional motivation to participate in the program.

2. Individual Permits vs. General Permits, Watershed Permits and Integrated Permits.

Tri-TAC supports exploring the concept of developing watershed-based, or preferably, state-wide, general permits for POTWs. The majority of the general permit would address common elements for all NPDES POTW dischargers. But, since some aspects of NPDES permits for POTWs are customized to the particular agency, the general permit could also contain guidelines for writing three customized “attachments” – one describing the plant, one containing effluent limitations, and one containing any special studies. These attachments would be developed separately for each permittee. This approach addresses elements common to all POTW permits in one regulatory action (the general permit), thereby preventing the large amount of wasted resources currently being spent to write lengthy individual permits. In California, it is not at all unusual for these permits to be 50 to 100 pages long. And there are hundreds of POTW permits in California. The regulatory agency could always maintain the option to write an individual permit for especially complicated POTW situations, or for those discharges with elevated water quality impacts, as currently exists with stormwater permits.

Additionally, a number of Tri-TAC members are municipalities who have multiple individual NPDES permits including POTWs, MS4s, construction stormwater, etc. These cities may be especially interested in the Integrated Municipal NPDES Permit approach. In this particular case, the integrated permit approach may have the opposite affect of the above mentioned watershed permits by coordinating disparate requirements into a single aligned document to the benefit of the permit holder. EPA is urged to help states develop a means to issue such integrated permits.

3. Watershed Management Planning: Water Quality Standards, TMDLs, Nonpoint Source Management Program, Water Quality Trading, and Source Water Protection.

Watershed-based permitting does provide for additional opportunities to coordinate overall watershed activities including key Clean Water Act requirements. Some of the pieces of these activities are naturally brought together by a watershed approach including assembly of stakeholders and the creation of some of the data necessary for these programs. By no means will a watershed-based permitting approach provide all the elements needed for these processes including additional ambient data, scientific expertise and modeling, the inclusion of nonpoint sources, legal and regulatory requirements, etc. EPA should provide clear guidance to identify, and fill, these holes in the approach so that states can be successful as they move forward with a watershed-based approach and develop their respective goals.

In summary, EPA's proposed Watershed-Based NPDES Permitting Implementation Guidance offers an opportunity for better watershed management through a coordinated permitting approach. Additional technical guidance would be useful in helping states and the regulated community in developing a workable program. Tri-TAC members appreciate your attention to these comments, and please contact me if you have any questions.

Sincerely,



Monica Oakley, Co-Chair
Tri-TAC Water Committee