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Mr. Ken Theisen
Staff Environmental Scientist
California Regional Water Quality Control Board
Santa Ana Region
3737 Main Street, Suite 500
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Dear Ken:

Thank you for presenting your current plans for development of a statewide Sanitary Sewer Overflow (SSO) General Order to Tri-TAC in November 2003. As you know, Tri-TAC is jointly sponsored by the California Association of Sanitation Agencies, the California Water Environment Association and the League of California Cities. The constituency base for Tri-TAC collects, treats and reclaims more than two billion gallons of wastewater each day and serves most of the sewered population of California.

There are many water quality challenges facing California and there are limited public resources to effectively deal with all of them. As you know, new regulations have cost impacts, not just on the dischargers and the public who must pay for those costs through rate increases, but also on the regulatory agencies who implement the regulation. In this era of limited resources, Tri-TAC is interested in working with the SWRCB and Regional Boards and the key stakeholders to prioritize efforts and identify creative cost-effective solutions instead of simply developing complex, costly and potentially unnecessary new regulations.

Tri-TAC believes that some type of statewide or regional process may be a sound approach for working to address many of the issues regarding sanitary sewer overflows that you identified in your presentation. However, from a statewide perspective, there are many significant differences regarding this issue between the diverse regions of the state and the coastal portion of the Santa Ana region that you have identified as a working model. Based on the broad statewide perspective of our members, Tri-TAC has identified a set of core principles that we believe must be reflected in any statewide (or regional) approach. There are a number of very significant inconsistencies between your preliminary draft order and the six principles

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we have identified. We are very interested to hear if the SWRCB would support a statewide process moving forward under these principles. If these principles can be appropriately addressed, Tri-TAC is prepared to work with you through this process.

Principles for a Statewide SSO Control Process

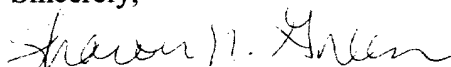
1. Guidance vs. Regulation – Tri-TAC believes that the culmination of this statewide effort should be the development of a nonregulatory approach, such as the development of a guidance document, instead of promulgation of a new permit or regulation. This would allow the individual Regions to take regulatory actions for controlling SSOs as the needs and water quality issues in the particular Regions dictate, instead of being constrained by a “one size fits all” new regulatory mandate. This would also provide for a more focused and local stakeholder process, as the need arises. In addition, Tri-TAC cannot support a “regulation by permit” approach and believes any new regulatory requirements should go through the standard regulatory process, followed by development of permits to implement the regulations, as necessary.
2. Allowance for Design Storms – The statewide effort must acknowledge and endorse the concept that collection system design is based on a design storm, selected using engineering principles, including regional variables such as hydrological conditions and beneficial uses of receiving waters. This is a critical issue that must be addressed since collection systems have never and will never be designed to prevent all spills that occur during all wet weather flow events. The design of collection systems is analogous to seismic design standards, where there is a certain seismic event buildings are designed to and these are clearly stated in building codes, yet the standards vary from region to region. The standards also recognize that there can be and will be seismic events greater than those specified. Similarly, we support an effort that allows flexibility in establishing design storms from region to region based on hydrologic conditions and existing site specific beneficial uses and corresponding water quality necessary to protect those uses. Regardless of the magnitude of the design storm chosen, the guidance would recognize an established level or standard to be met, above which any overflow would be deemed unavoidable and would be permitted.
3. No New SSO Prohibition - As you stated in your presentation, the Clean Water Act and the California Water Code provide the necessary authority regarding regulation of SSOs. Therefore, we suggest that the State and Regional Boards focus on the issues of reporting, O & M practices, FOG and root control, etc., and not get “bogged down” in developing a new prohibition and concomitant affirmative defense language. As you know, this has been a very sensitive issue at the national level, which has resulted in the 8-year debate and resultant long delay in EPA’s national SSO/CMOM rule being sent out for public comment.
4. Definition of SSOs – At the national, State, and regional levels, there is not consistency in how SSOs are defined for reporting, regulatory and enforcement activities. For the purpose of a statewide effort, SSOs should be defined as overflows that reach receiving waters. This maintains the focus on impact to receiving water and beneficial uses.

5. Consistent Reporting of SSOs – The first priority of a statewide effort should be to address the need for consistent statewide reporting of SSOs. The Legislature has recognized the importance of consistent reporting. Water Code Section 13193(b) requires the SWRCB to develop a uniform electronic reporting system, to the extent funding is available. As you know, there are hundreds, if not thousands, of satellite collection system agencies that may not have been involved in prior outreach regarding reporting requirements. Different Regional Boards also have different reporting requirements. Consistent reporting requirements throughout the State would allow a better determination of the magnitude of the SSO problem and of the water quality impacts of SSOs. This development of a statewide uniform reporting structure and associated database to better define and quantify the problem would logically be the initial effort. Then, the application of appropriate regulatory fixes to real and identified problems would be the next steps. The water quality issues and impacts from SSOs throughout the State are very different than the experience of beach closures in the Santa Ana Region and other parts of the coast in Southern California.

6. Development of Industry Standards for Operation and Maintenance of Sanitary Sewers (CMOM/SSMP) – The statewide effort should address the need for the development of standards of practice, which would be valuable tools to help insure the proper O & M and long term infrastructure maintenance of collection systems. The need for these kinds of standards is recognized and supported by the collection system and POTW community. While this is the standard practice for many agencies, through the development of these standards of practice, smaller satellite agencies would learn from more established programs and there would be clear expectations for all systems.

Thank you again for your presentation to Tri-TAC on this issue and consideration of these principles as part of the stakeholder process. We believe that they are largely consistent with many of the principles under which you are operating, as well as with discussions we have previously had with SWRCB staff over the past several years. We believe that a useful next step would be for us to meet with SWRCB staff and you to discuss options for moving forward in 2004. To that end, we will be contacting you and John Norton in the near future to see if we can find a date in January to continue our discussions. In the meantime, please let me, Outgoing Water Committee Co-Chair Monica Oakley of Larry Walker Associates (925-962-9700), or Incoming Water Committee Co-Chair Ben Horenstein of EBMUD (510-287-1846) know if you have any questions.

Sincerely,



Sharon N. Green
Chair, Tri-TAC

cc: Pete Silva, Member, SWRCB
John Norton, Chief, SWRCB Office of Statewide Initiatives
Gerard J. Thibeault, Executive Officer, Santa Ana RWQCB