



Tri-TAC
Jointly Sponsored by:
League of California Cities
California Association of Sanitation Agencies
California Water Environment Association
Reply to: Jim Colston, OCSD
10844 Ellis Ave., Fountain Valley, CA 92708

December 17, 2008

Tam Doduc, Chair, and Members
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Attention: Jeanine Townsend, Clerk to the Board
commentletters@waterboards.ca.gov

Via Electronic Mail

Re: Comment Letter – Anti-Degradation Policy (Resolution 68-16)

Dear Chair Doduc and Members:

The California Association of Sanitation Agencies and Tri-TAC appreciate the opportunity to provide comments on the periodic review of the Anti-Degradation Policy, State Water Resources Control Board (SWRCB) Resolution No. 68-16. Our associations represent municipal wastewater collection, treatment and water recycling agencies, which have a significant stake in this policy and its proper implementation. We provided brief oral comments at the November 17, 2008 SWRCB workshop, and these written comments are submitted for your consideration as you move forward with review of the policy.

In general, for point sources discharging to surface waters, we support maintaining the current policy and implementation. The policy has been very effective in providing dischargers and Regional Water Boards with a mechanism to review their proposed actions to determine if they meet the federal and state anti-degradation requirements. Specifically, the following responses are provided to the questions posed by the SWRCB.

- 1. Should the State's Anti-degradation Policy be revised as it pertains to surface waters? If so, how should it be revised?**

No, Policy 68-16 should not be revised. As noted during the workshop, all or nearly all speakers recommended retaining the existing policy. This policy predates the Clean Water Act and has been important to the protection of historic water quality in California. As used today in statewide NPDES permit review, the anti-degradation policy results in the appropriate level of review to assure that the purposes of the policy are maintained. In some instances, historic water quality has not been well defined. Under such circumstances, the SWRCB should provide a reasonable means to move forward with NPDES permitting. In some instances, it may be necessary to conduct background monitoring to fairly characterize water quality for the purposes of protecting historic water quality.

2. Should the implementation procedures as contained in APU 90-004 be revised? If so, how should they be revised?

We support retaining the existing procedures. The question and answer format, progressive analysis process, and flow chart make these procedures straight forward and reasonable to implement. However, some modest changes could improve the overall anti-degradation review process.

- Clarify whether or not any differences exist between federal and state requirements that are not covered in the existing procedures. To date, we have understood Policy 68-16 and APU 90-004 sufficient to satisfy federal and state requirements. If this is not the case, the SWRCB should modify APU 90-004 to clarify any further requirements.
- Ensure that this process is not overly burdensome for small and medium-sized public agencies, either in terms of master planning or the construction of new facilities. Regional Water Boards should provide clear information about existing and historic water quality and adopted water quality objectives such that dischargers can determine whether or not their proposal(s) will meet anti-degradation requirements.
- Assure that the implementation procedure works well with other policies and requirements. The procedures state that anti-degradation requirements can be implemented on a mass or concentration basis, depending on the circumstances. This could be very important for the Water Recycling Policy, since water quality and water quantity are tightly linked, especially in Southern California. For example, an increase in overall mass from a discharge may be offset by volumes of high quality flow of recycled

water. Furthermore, these flows may offset the demand for imported water, benefitting the state overall.

3. Should the implementation procedures be formally adopted as guidance or regulations by the State Water Board?

We do not believe it is necessary to formally adopt the implementing guidance contained in APU 90-004. The APU does not substantively change or alter either the federal or state policies, nor does it create new regulatory requirements. As guidance, the APU allows sufficient flexibility to tailor the analysis to the conditions of the proposed discharge and the characteristics of the receiving water body..

4. Should the implementation procedures in APU 90-004 be expanded beyond the point source discharge permitting program?

The SWRCB and local Regional Water Boards should assure that all state waters are protected through properly adopted beneficial uses, water quality objectives and the anti-degradation policy. Non-point source programs should properly account for satisfaction of anti-degradation requirements, either directly or indirectly. If non-point sources are not required to account for changes in water quality, then point sources and the general public will be left with the entire responsibility. This is an inappropriate shifting of burden that the SWRCB should not allow.

5. Should the State's Anti-degradation Policy be revised as it applies to groundwater? If so, why should it be revised, and how should it be revised?

The SWRCB should draft procedures to facilitate implementation of the State's anti-degradation policy when issuing Waste Discharge Requirements and other permits that impact groundwater. Proper procedures provide statewide consistency and help to define what is permissible under the policy. There is great concern that historic water quality data is not available for many groundwaters, and the SWRCB should make sure that the lack of data is not a bar to moving forward with permitting under otherwise approvable conditions. In most instances, point sources can account for their discharges over time through effluent and receiving water monitoring. The procedures should recommend mechanisms where agencies, either alone or in conjunction with larger scale coordinated efforts, can participate in groundwater management monitoring programs. Also, groundwater monitoring data should be

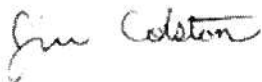
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evaluated over long periods of time (years and decades as opposed to days and months) as these waters fluctuate under varying natural and manmade conditions including rainfall, seasons, and use conditions.

Closing

As comments offered during the November workshops made clear, there are some stakeholders who assume that the increase in Clean Water Act Section 303(d) listed waters is an indication that many state waters are degrading. We feel it important to note our disagreement with this assumption. The increase in 303(d) listings has more to do with changes in listing policy, better analytical methods, and expansion of the state's definition of what constitutes a pollutant than it does with declining water quality. The agencies we represent conduct a significant amount of receiving water monitoring around the state. For many constituents, water quality is improving or remaining at a level better than or adequate to maintain and protect beneficial uses. This suggests that the anti-degradation policy has been effective at safeguarding the state's waters. The policy should be implemented to serve the needs of the state while protecting water quality and beneficial uses.

Please contact the undersigned with any questions regarding these comments. We would be pleased to participate in future efforts to improve the anti-degradation policy and procedures.



Jim Colston, Tri-TAC Chair



Roberta Larson, CASA