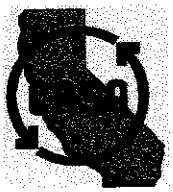

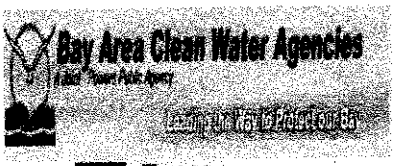

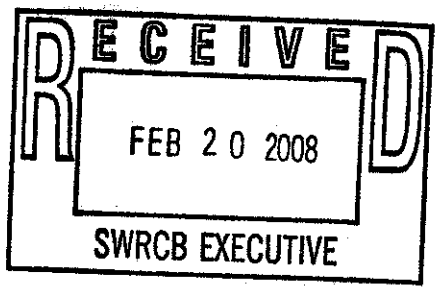

February 20, 2008

Via Electronic Mail and Hand-Delivery

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

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

SUBJECT: Proposed Statewide Policy for Compliance Schedules in National Pollutant Discharge Elimination System Permits

Dear Chair Doduc and Members:

The California Association of Sanitation Agencies, Tri-TAC, the Bay Area Clean Water Agencies, Central Valley Clean Water Association, and the Southern California Alliance of POTWs appreciate the opportunity to provide comments on the *Proposed Statewide Policy for Compliance Schedules in National Pollutant Discharge Elimination System Permits* ("Compliance Schedule Policy" or "Draft Policy"). Our associations represent a majority of the State's municipal wastewater treatment agencies that discharge to surface waters pursuant to National Pollutant Discharge Elimination System ("NPDES") Permits. While our associations appreciate the State's efforts to put forward a statewide policy for consistency, the Draft Policy is fraught with provisions that will undermine the usefulness of compliance schedules for municipal wastewater treatment agencies.

Because of the major concerns associated with this Draft Policy, we encourage the State Water Resources Control Board ("State Water Board") to direct staff to substantially overhaul the Draft Policy so that it allows for flexibility, the use of compliance schedules for non-structural changes, and allows for schedules to extend beyond five years when necessary. Our comments and concerns on the substantive provisions of the Draft Policy are provided below in Part I.

We also have major concerns with the State Water Board's compliance with the California Environmental Quality Act ("CEQA") in adopting this Policy. The State Water Board is required to comply with the substantive requirements of CEQA, as contained in California regulations. (See Cal. Code Regs., tit. 23, § 3777.) To that end, the State Water Board has prepared an Environmental Checklist (Appendix D) to determine if the project (i.e., adoption of the Policy) will have a potentially significant impact to the environment. To our dismay, the State Water Board has determined that its adoption of the Policy will have no impact on the environment. "The State Water Board finds that adoption of the Policy will not have any significant or potentially significant effects on the environment and, therefore, no alternatives or mitigation measures are proposed to avoid or reduce any significant effects on the environment." (Draft Policy at p. 2.) We disagree with the State Water Board's findings and believe that adoption of this Policy will have potentially significant impacts on the environment. Our comments on the State Water Board's failure to comply with CEQA are provided below in Part II.

Part I. Proposed Compliance Schedule Policy Eliminates Necessary Flexibility that is Allowed Under Federal Law

We have identified a number of concerns associated with the substantive provisions of the Draft Policy. Our major concerns are discussed first, followed by other concerns regarding specific language used and potential unintended consequences.

A. The Draft Policy Inappropriately Limits the Scope and Applicability of Compliance Schedules.

Under the Draft Policy, municipal wastewater agencies would only be able to obtain in-permit compliance schedules where there is a "more stringent" new, revised, or newly interpreted water quality standard **and** where the permittee "must design and construct facilities or implement new or significantly expanded programs and secure financing, if necessary, to support these activities … ." (Draft Policy at p. 3.) The two proposed restrictions are not currently part of federal law and are an inappropriate constriction of Regional Water Board authority to establish compliance schedules where determined appropriate.

1. Compliance Schedules Should be Allowed for Alternative Compliance Strategies.

The Clean Water Act ("CWA") defines the term schedule of compliance to mean "a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition or standard." (CWA § 502(17).) Nowhere does the definition state that schedule of compliance means "designing and constructing new facilities," or expanding new programs. According to

federal law, compliance schedules are authorized for existing dischargers to meet new or revised effluent limitations when there is a new, revised (or newly interpreted) water quality standard. (See *In the Matter of Star-Kist Caribe, Inc.*, 3 Environmental Administrative Decisions ("E.A.D.") 172 (1990).) It does not limit the use of compliance schedules only to situations where new effluent limitations trigger the need for new construction.

The State Water Board's proposal to limit the use of compliance schedules in this manner will eliminate Regional Water Board flexibility and the use of compliance schedules for alternative compliance strategies. For example, the Central Valley Regional Water Board currently uses blanket provisions (e.g., the tributary footnote) in their respective Basin Plans to designate beneficial uses. In some cases, such designations are inappropriate and need to be addressed. However, the State Water Board has declared that once designated, even through a blanket statement or Basin Plan provision, the Basin Plan must be amended to de-designate uses that do not exist and are not attainable. (See *In the Matter of the Review on Own Motion of Waste Discharge Requirements Order No. 5-01-044 for Vacaville's Easterly Wastewater Treatment Plant* (2002) Order WQO 2002-0015 ("*Vacaville* Order").) The development of Use Attainability Analyses ("UAAs") to support Basin Plan amendments, and Basin Plan amendments themselves, take considerable time and effort before being completed. In such cases, it is appropriate for a NPDES permit to include a compliance schedule to allow for the development of a UAA and Basin Plan amendment. The State Water Board supported this use of a compliance schedule in its precedential *Vacaville* Order.

> In the Vacaville permit, the Central Valley Regional Board generally addressed the disputed beneficial uses by including compliance schedules for final effluent limitations based on the uses and, for the interim, limits based on current treatment plant performance. The schedules allow Vacaville time to provide information supporting a basin plan amendment to dedesignate the uses. The schedules also ensure that Vacaville is not in immediate noncompliance with its permit.

(*Vacaville* Order at p. 17.)

In addition to accommodating UAAs, compliance schedules should be available where the newly interpreted water quality standard may need to be adjusted to consider site-specific factors. For example, the Central Valley Regional Water Board uses the U.S. EPA recommended ambient water quality criteria for aluminum as an interpretation of the narrative toxicity standard. The recommended criteria contains a footnote that suggests it may be necessary to conduct a water effects ratio because the recommended criteria was developed in waters with excessively low pH and low hardness. In many Central Valley water bodies, low pH and low hardness conditions do not occur and therefore the aluminum criteria may need to be adjusted to reflect actual receiving water conditions. If the Draft Policy is adopted, dischargers would not be able to obtain an in-permit compliance schedule to conduct a water effects ratio so that an appropriate limit may be applied in the permit. As a result, dischargers

may be forced to build new, expensive treatment processes in order to avoid permit non-compliance instead of conducting a study that would adjust the criteria as recommended by U.S. EPA.

As stated previously, compliance schedules must, by statutory definition, include "enforceable actions or operations leading to compliance." (CWA § 502(17) [33 U.S.C. § 1362].) The inclusion of compliance schedules in a NPDES permit for studies complies with the definition because completion of these studies is integrated as an enforceable term in the permit itself, and can ultimately lead to compliance. Thus, the State Water Board has no legal basis for limiting the use of compliance schedules only where new treatment facilities must be built.

2. Compliance Schedules Should be Allowed for all Revised Water Quality Standards and Newly Applied Water Quality Standards.

We are equally concerned with the provision in the Draft Policy that would limit the use of compliance schedules only where the new, revised, or newly interpreted water quality standard is more stringent than the existing standard. The Draft Policy (and staff report) provides no justification or authority for limiting the use of compliance schedules in this manner.

The CWA explicitly allows for schedules of compliance for new or revised water quality standards. (CWA § 303(e)(3)(F) [33 U.S.C. § 1313(e)(3)(F)].) Such schedules of compliance are not limited to new or revised water quality standards that are more stringent than those previously in effect. In *Communities for a Better Environment v. State Water Resources Control Board*, 132 Cal.App.4th 1313, 1333-1336 (2005), the California Court of Appeal upheld a trial court decision that found compliance schedules are authorized when the State adopts a new or revised interpretation of an existing water quality standard—without caveats to the relative stringency of the new or existing objectives.

U.S. EPA considers compliance schedules to be part of the State's water quality standards, and therefore U.S. EPA reviews and approves compliance schedule provisions. (*In re Star-Kist Caribe, Inc.*, 3 E.A.D. 172 at 21, fn. 16.) U.S. EPA has reviewed and approved the compliance schedule provisions in various Basin Plans in California that do not limit compliance schedules to new or revised objectives that are more stringent. For example, the language contained in the North Coast Water Quality Control Plan, which was approved by U.S. EPA on February 27, 2006, allows for compliance schedules for effluent limitations or receiving water limitations that "implement new, revised or newly interpreted water quality objectives, criteria or prohibitions." (Letter to Tom Howard, Acting Executive Director from Alexis Strauss, Director, Water Division, U.S. EPA Region IX (Nov. 29, 2006).) The authorizing language from the CWA does not limit the application of compliance schedules to new or revised water quality objectives that are more stringent. Similarly, the language contained in the Los Angeles Water Quality Control Plan, approved by U.S. EPA in February

2004, states that compliance schedules are authorized for standards that are adopted, revised or newly interpreted after the effective date of the amendment." (Los Angeles Water Quality Control Plan, Basin Plan Amendment, Resolution 2003-001.) The Sacramento River and San Joaquin River Basins Water Quality Control Plan includes a compliance schedule authorization provision for water quality objectives or criteria adopted after September 25, 1995—again, without regard to the stringency of the objectives.

At best, it appears that the Draft Policy attempts to extrapolate the definition of "newly interpreted water quality standard" to support limiting compliance schedules to situations where the new, revised or newly interpreted standard is "more stringent." The definition of "newly interpreted water quality standard" as contained in the Draft Policy comes directly from the definition for the same term contained in the Los Angeles Water Quality Control Plan. In both cases, the definition explains that there is a newly interpreted standard when, during permit development, the interpretation of a narrative objective results in a *numeric permit limitation* more stringent than the limit in the prior NPDES permit. This is not the same as allowing for a compliance schedule when the standard itself may be less stringent.

Similarly, U.S. EPA articulated its position regarding compliance schedule authorizing provisions in its November 2006 communication to the State Water Board. (Letter to Tom Howard, Acting Executive Director, from Alexis Strauss, Director, Water Division, U.S. EPA Region IX (Nov. 29, 2006).) In this communication, U.S. EPA confirms that the State may authorize compliance schedules for a permittee to comply with an effluent limitation that implements a new or revised water quality standard. (*Id.* Attachment to letter, Discussion of Selected Issues at p. 4.) U.S. EPA refers to stringency with regard to the compliance schedule provisions contained in the California Toxics Rule ("CTR") (40 C.F.R. § 131.38(e)) limiting compliance schedules to situations where implementation of water quality criteria contained in the CTR results in *water quality based effluent limitations that are new or more restrictive* then previous effluent limitations. Like the language contained in the definition for "newly interpreted water quality standard," the authorizing compliance schedule language in the CTR is triggered by the water quality based effluent limitation and not the underlying criteria.

The State Water Board must remember that water quality standards are water quality based and are established to protect the beneficial uses. They are not based on a discharger's ability to comply with the standard. Even if a standard is changed or newly interpreted to be less stringent, in all likelihood there may be dischargers that will still be unable to comply with the standard as revised and will need a compliance schedule to meet the new standard. For example, a water effects ratio study may adjust water quality criteria for a certain water body. However, just because a criterion is adjusted does not guarantee that all dischargers can now comply with the adjusted criterion. Some dischargers may still need to make other changes to meet the newly revised water quality criteria. The Draft Policy must be amended to allow for the use of compliance schedules whenever the water quality standard is revised and not just when it is more stringent.

The key consideration for allowing compliance schedules in NPDES permits should be if the newly revised, interpreted or applied standard results in a new or more stringent effluent limit than what was in the previous NPDES permit—not that there is a new, more stringent standard. In keeping with this key consideration, the approach that currently exists in the San Diego Region's Basin Plan appears to be the most appropriate. As such, we recommend that the State Water Board consider the Alternative 6.b.3, which would define "newly interpreted" water quality standard to mean "a narrative or numeric water quality objective that, when interpreted during NPDES permit development to determine NPDES permit limitations necessary to implement the objective, results in a numeric NPDES permit limitation more stringent than the limit in the prior NPDES permit issued to the discharger." (Draft Policy, Draft Staff Report at p. 60.) Further, we recommend that the definition include the examples identified in the Draft Staff Report, which includes: (1) Pollutants previously unregulated in an existing discharge are newly regulated because the new information indicates reasonable potential for the discharge to exceed an applicable water quality objective in the receiving water; (2) Pollutants are newly detected in an existing discharge due to improved analytical techniques; (3) The point of compliance for a receiving water limitation is changed; and (4) Dilution allowance for an existing discharge is changed. In addition, we recommend that the list of examples be expanded to include a scenario where the beneficial use designations for a specific receiving water may be newly applied or interpreted resulting in newly applied numeric limitations to a permittee for the first time.

In summary, we recommend that the State Water Board revise the Draft Policy to authorize compliance schedules for permit compliance activities regardless if the activity results in the "design or construction" of new facilities. We also recommend that the Draft Policy be amended to delete the provision that eliminates the ability to use compliance schedules in situations where new or revised water quality standards are less stringent. Compliance schedules should be authorized for newly revised, interpreted, or applied water quality standards that result in more stringent permit limitations than previously applied before. Without the revisions, the restrictive nature of the Draft Policy will inevitably lead to far more permit appeals, because the permits will include conditions that cannot be complied with in the allowed time period.

B. The Draft Policy Inappropriately Limits the Maximum Length of Compliance Schedules to Five Years.

Except in two limited circumstances, the Draft Policy would limit Regional Water Boards from adopting compliance schedules that extend beyond five years, or the life of the permit, whichever is less. Such a limitation is unreasonable and is not required by federal law or regulation. More importantly, the restriction is impractical considering the time necessary to design, permit, finance, and construct new or expanded facilities for public agencies.

Because POTWs are public agencies, they have a responsibility to the public (and ratepayers) to conduct all business through an open and transparent process. This is especially true for major capital improvement projects that involve millions of dollars of public funding. Construction projects that take five years for the private sector will undoubtedly take twice as long in the public sector. Upgrades to wastewater treatment facilities anticipated by the Draft Policy are major capital improvement projects that require careful planning, design, CEQA review, financing through State revolving fund ("SRF") loans, bonds and/or increased service rates, and public contracting and bidding processes, prior to construction. In almost all cases, completion of major capital projects is time consuming and rarely accomplished in five years, especially in the public sector. (See attached Table 1, Examples of Facility Construction Projects.) In fact, the State Water Board's Division of Clean Water Programs estimated that for a POTW to process a major treatment plant upgrade or construction project (including SRF application, project design, environmental review, contracting, construction and operations inspection, and compliance certification) it takes approximately 11.8 years. (See State Water Board SRF Loan Program Flow Chart (Sept. 14, 1994).) Considering the length of time necessary to upgrade public facilities, the proposed five-year limitation is unreasonable and sets POTWs up for failure.

The five-year limitation may also severely constrain Regional Water Board flexibility for addressing pollutants on a watershed-wide basis. For example, the San Francisco Regional Water Board has spent eight years developing site-specific objectives ("SSOs") for copper in San Francisco Bay and six years developing SSOs for cyanide. The City of Los Angeles has spent six years developing a copper water effects ratio study for the Los Angeles River. Similarly, the Central Valley Regional Water Board is looking to address salinity in the Central Valley on a watershed basis. If limited to five years for compliance schedules in NPDES permits while watershed approaches are developed, Regional Water Board options for addressing problem pollutants in NPDES permits becomes limited. As a result, NPDES permit holders, and in particular POTWs, may be forced to build expensive and unnecessary treatment facilities in lieu of participating in a watershed based solution.

Considering the frequent need for longer compliance schedules, it is unreasonable, and unnecessary, for the State Water Board to adopt a Policy that puts many POTWs in jeopardy of non-compliance due to artificial time constraints. The exceptions provided in the Draft Policy are too narrow and provide Regional Water Boards with little flexibility.

Moreover, we are concerned with the lack of evidence or analysis that justifies the proposal to restrict compliance schedules to five years. Agency action not supported by the findings, or findings not supported by the evidence, constitutes an abuse of discretion. (See *Topanga Association for a Scenic Community v. County of Los Angeles,* 11 Cal.3d 506, 515 (1974); *Southern Cal. Edison v. SWRCB,* 116 Cal.App.3d 751, 761 (1981).) The Draft Policy and Draft Staff Report provide no evidence, support or rationalization for the restriction except for reference made by State Board staff to a February 10, 2004 letter from U.S. EPA approving an amendment to the Los Angeles Region's Basin Plan. U.S. EPA's letter stated

that U.S. EPA's "experience has shown that five years is the maximum amount of time existing dischargers need to complete the necessary planning, funding, and facility upgrades to achieve compliance with new water quality based effluent limits." (See Draft Staff Report at p. 45, fn. 45.) In our collective experience, U.S. EPA's statement is patently false. (See attached Table 1.) At the very least, we would appreciate and encourage State Water Board staff to provide evidence and/or analysis regarding the types of actions that might be required to comply with all of the differing statewide and/or regional Basin Plan provisions (narrative and numeric), to demonstrate that all of these actions are feasible to complete within five years.

Considering the overall need to allow for time schedules beyond five years, we recommend that the Draft Policy be amended to allow, at a minimum, ten years. In addition, Regional Water Boards should be given the discretion to extend a compliance schedule beyond ten years under certain conditions.

C. The Draft Policy Includes other Limiting Provisions that are Unreasonable and Inappropriate.

In addition to the primary concerns discussed at length immediately above, the Draft Policy contains other provisions that cause concern for POTWs including: applying the Draft Policy to existing permits if reopened; limiting application to only effluent limitations and receiving water limitations; and, failure to authorize compliance schedules for CTR criteria after May 18, 2010, if discharger shows reasonable potential for a given CTR criteria for the first time.

1. The Draft Policy Would Apply to Permits within Existing Permit Term if Reopened.

The Draft Policy states, "[t]his Policy shall apply to all NPDES permits adopted by the Water Boards that must comply with Clean Water Act section 301(b)(1)(C) and that are modified or reissued after the effective date of the Policy." (Draft Policy at p. A-3.) In other words, if a permit is reopened or modified for some reason or another, the new compliance schedule provisions would apply. In such cases, the Draft Policy does not clarify if the new compliance schedule provisions would only apply to changes to the reopened permit or if the new provisions would apply to all provisions within the permit. Under the latter scenario, many existing permits with legally valid compliance schedules could be reopened and the legally adopted schedules could be eliminated or revised to reflect the limitations contained in the Draft Policy.

At the very least, the Draft Policy should apply only prospectively and all existing compliance schedules should be recognized and grandfathered by the Draft Policy. To do otherwise, creates uncertainty and may constitute a violation of due process.

2. The Draft Policy Would Allow Compliance Schedules Where Necessary to Comply with a Permit Limitation.

The term permit limitation is defined in the Draft Policy to mean "a water quality-based effluent limitation ("WQBEL"). A permit limitation also includes a receiving water limitation." (Draft Policy at p. A-3.) Through this definition, the Draft Policy would eliminate the use of compliance schedules for other permit provisions including compliance with prohibitions. The proposed approach is not mandated or directed by federal law or regulation and directly conflicts with the definition of compliance schedule, which is "a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, limitation, prohibition, or standard." (CWA § 502(17); see also 40 C.F.R. § 122.2, which includes prohibitions under its definition for "applicable standards and limitations.")

The staff report justifies the narrowing of existing federal authority because it is more conservative and Regional Water Boards may adopt conditional prohibitions with delayed effective dates. We do not believe the reasoning supports narrowing existing federal authority. Again, the Draft Policy would unnecessarily eliminate Regional Water Board flexibility when it adopts NPDES permits. We recommend that the Draft Policy be revised to be consistent with federal authority.

3. The Draft Policy Fails to Provide for Compliance Schedules for Newly Found Reasonable Potential for CTR Criteria.

The Draft Policy would not authorize compliance schedules for existing CTR criteria even if a discharge is found to have reasonable potential for the first time for the CTR criteria in question. Thus, a discharge that results in reasonable potential of a CTR criterion for the first time after May 18, 2010, must immediately comply with a new effluent limitation. It is unreasonable and unfair to require a POTW to immediately comply with a new permit limit that the POTW could have no reason to expect would be imposed. The Draft Policy needs to be revised to authorize compliance schedules for new effluent limitations based on CTR criteria.

Part II. Draft Policy has Potentially Significant Environmental Impacts Under CEQA that Have Not Been Identified or Addressed in the Functional Equivalent Document

The Draft Policy includes the requisite Environmental Checklist at Appendix D. Based on the evaluation, the State Water Board staff found that there would be "no adverse environmental impacts resulting from the actions proposed in the policy." (Staff Report to Draft Policy at p. 73.) Staff also states that the Draft Policy will not result in any change to the physical environment. (*Id.*) Based on this conclusion, it appears that State Water Board staff have failed to consider the environmental impacts that may result from limiting

compliance schedules to five years, and for limiting compliance schedules to projects that include only designing and constructing new facilities.

One reasonable foreseeable outcome from the Draft Policy will be the need for some POTWs to build new treatment facilities instead of addressing permit compliance issues through other regulatory alternatives. As discussed above, the Draft Policy proposes to limit compliance schedules "where the Water Board determines that the discharger must design and construct facilities or implement new or significantly expanded programs and secure financing." (Draft Policy, Appendix A at p. A-3.) This is a change from current practices where Regional Water Boards adopt compliance schedules when there is a need to build new treatment facilities and also where it may be necessary to conduct a special study to determine if the newly revised or interpreted water quality standard is appropriate. With this change, POTWs and Regional Water Boards will not have the option to conduct special studies (e.g., water effects ratios, UAAs, site-specific objectives, metals translators, etc.) that may alter the water quality criteria. Without this option, many POTWs will be forced to build new treatment facilities. The construction of new treatment facilities will clearly result in potentially significant environmental impacts. Thus, the Draft Policy results in causing potentially significant environmental impacts.

For example, hypothetically, NPDES permit for POTW X contains an effluent limitation for aluminum based on the U.S. EPA's recommended ambient water quality criteria, which is considered to be a new interpretation of the narrative objective. Because it is a newly interpreted narrative water quality objective, the Draft Policy would authorize the Regional Water Board to adopt a compliance schedule in the NPDES permit. However, POTW X could only receive the compliance schedule if designing or constructing facilities, or expanding new programs. It is unlikely that "new programs" would allow POTW X to meet the new effluent limitation. However, a water effects ratio for aluminum might be an appropriate study because site-specific conditions impact the relative toxicity of aluminum to aquatic life. Under the Draft Policy, POTW X would not be able to obtain a compliance schedule to conduct the water effects ratio study. Faced with uncertainty and the need to comply with a new aluminum effluent limit, it is reasonably foreseeable that POTW X would find it necessary to construct new treatment facilities to address aluminum. In this case, the construction of new treatment facilities occurred as a direct result of the Draft Policy.

In another hypothetical example, POTW Y finds it necessary to construct new treatment facilities to meet effluent limitations based on newly revised water quality standards. To design the new treatment facilities, POTW Y would like to conduct a pilot study to ensure that the final treatment facilities are properly sized and designed. However, the Draft Policy limits the compliance schedule to five years. With only five years, POTW Y is unable to conduct the pilot study and then design proper facilities, bid contracts and construct the new facility. Without the pilot study, POTW Y must instead make extremely conservative estimates that result in building a larger facility with a larger footprint. The

construction of a larger facility with a larger footprint is a potentially significant environmental impact.

In both cases, the construction of new treatment facilities and the construction of larger facilities create an environmental impact. In addition, new or larger facilities may alter the carbon footprint of the existing wastewater treatment facility resulting in an impact on climate change. Thus, the Draft Policy does result in potentially significant environmental impacts.

Where there is sufficient evidence of a fair argument that the project (i.e., Draft Policy) may have a significant effect on the environment, the State Water Board must prepare an Environmental Impact Report ("EIR") or its functional equivalent. (See *City of Arcadia v. State Water Resources Control Board* (2006) 135 Cal.App.4th 1392, 1420.) "As a matter of policy, in CEQA cases a public agency must explain the reasons for its actions to afford the public and other agencies a meaningful opportunity to participate in the environmental review process, and to hold it accountable for its actions." (*Id.* at p. 1426, citations omitted.) The State Water Board's environmental checklist and staff report are insufficient here because they fail to analyze the reasonably foreseeable impacts that will result from the Draft Policy. (*Id.* at p. 1425.) The State Water Board's environmental documents also fail to explain the State Water Board's reasons for its actions in finding "no significant environmental impact." Thus, the State Water Board's environmental review does not comply with CEQA and must, at least, be revised accordingly to consider the potentially significant environmental impacts that result from the Draft Policy.

In summary, our associations have serious concerns with the Draft Policy. In its current form, the Draft Policy restricts Regional Water Board flexibility and limits the ability of POTWs to comply with new permit limits within a reasonable timeframe. To be workable, the Draft Policy must be substantially revised. Furthermore, the State Water Board must re-evaluate the environmental impacts associated with the Draft Policy. In its current form, the Draft Policy has potentially significant environmental impacts because it forces POTWs to build new and/or larger treatment facilities. Unless these environmental impacts are fully evaluated, the CEQA analysis is flawed and the State Water Board has abdicated its responsibilities under CEQA.

Sincerely,

Roberta L Larson

Roberta Larson
CASA

Michele Pla
BACWA

(for) Jim Colston
Tri-TAC

Debbie Webster
CVCWA

John Pastore
SCAP

Attachment: Table 1

Table 1. Time for Facility Construction Projects

Facility/Agency	Upgrade Project	Amount of Time for Project	Regulatory Mechanism for Time Schedule
Wastewater Treatment Plant – Vallejo Sanitation and Flood Control District	WWTP Upgrade and Collection System Upgrade	7 years	Consent Decree
Davis Wastewater Treatment Facility – City of Davis	Replace Existing Secondary, Add Tertiary Treatment	Estimate 8 years	NPDES Permit Compliance Schedule
Joint Water Pollution Control Plant – Los Angeles County Sanitation Districts	Full Secondary for 200 MGD Plant	8 years	Consent Decree
Long Beach, Los Coyotes, San Jose Creek, Pomona, Whittier Narrows, Saugus & Valencia Water Recycling Plants – Los Angeles County Sanitation Districts	Nitrification and Denitrification	8 years	NPDES Permit Compliance Schedules
Plants 1 & 2 – Orange County Sanitation District	Full Secondary for 150 MGD	9.5 years (CEQA already completed prior to 9.5 years)	Consent Decree
Terminal Island Water Recycling Plant – City of Los Angeles	Microfiltration / Reverse Osmosis	9.5 years	
Donald C. Tilman Treatment Plant – City of Los Angeles	Nitrification and denitrification	9.5 years	
Los Angeles/Glendale – City of Los Angeles	Nitrification and denitrification	9.5 years	
Wet Weather Facilities (3) – East Bay Municipal Utilities District	Primary Treatment and Disinfection	10+ years	Cease and Desist Order