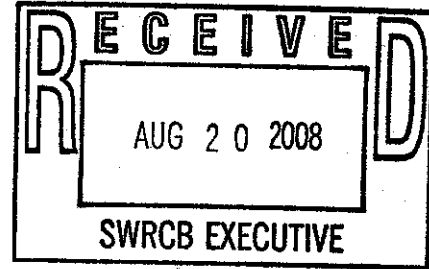




**Tri-TAC**  
Jointly Sponsored by:  
League of California Cities  
California Association of Sanitation Agencies  
California Water Environment Association

August 20, 2008

Ms. Jeannine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



SUBJECT: SWRCB/OCC File A-1894 – September 2, 2008 Board Meeting

Dear Ms. Townsend:

The California Association of Sanitation Agencies (CASA) and Tri-TAC appreciate the opportunity to provide comments on the State Water Resources Control Board's (State Water Board) Proposed Order in the matter of Petition of California Sportfishing Protection Alliance (CSPA) for the City of Davis Wastewater Treatment Plant, Yolo County, Central Valley Board issued on July 21, 2008. CASA and Tri-TAC are statewide organizations comprised of members from public agencies and other professionals responsible for wastewater treatment. Tri-TAC is jointly sponsored by CASA, the California Water Environment Association, and the League of California Cities. The constituency base for CASA and Tri-TAC collects, treats and reclaims more than two billion gallons of wastewater each day and serves most of the sewered population of California.

Our comments focus on the portion of the Proposed Order that addresses the selection of hardness-values to calculate California Toxics Rule (CTR) criteria for hardness-dependent metals. In general, CASA and Tri-TAC write to express concern with the approach for selecting hardness that is suggested in the Proposed Order.

The Proposed Order would conclude that the "Central Valley Water Board should have used the lowest valid upstream receiving water hardness values" for calculating CTR hardness-dependent criteria. (Proposed Order at pp. 11-12.) The rationale provided for this conclusion is that resulting limits "must always be protective of water quality criteria under all flow conditions." (Proposed Order at p. 11.) CASA and Tri-TAC are concerned that the Proposed Order's approach is inconsistent with the CTR, and would unnecessarily restrict Regional Water Quality Control Board (Regional Water Board) discretion.

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The CTR sets forth water quality criteria for priority toxic pollutants, and such criteria are part of the state's water quality standards. (40 C.F.R. § 131.38(b).) To derive water quality criteria for certain metals, the CTR requires that actual ambient hardness of the receiving water be used when hardness is less than 400 mg/L. (40 C.F.R. § 131.38(c)(4).) The CTR also requires hardness values used in the criteria calculation to be consistent with design discharge conditions of the receiving water, which are critical low flow values upon which permit limits are based. (40 C.F.R. § 131.38(c)(2)-(4).) The approach in the Proposed Order would essentially ignore the design discharge condition requirements in the CTR, and would instead require the Regional Water Board to use upstream receiving water values that account for wet-weather flow conditions. To support this conclusion, the Proposed Order would rely on effluent limitation calculation provisions contained in the State's *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (SIP). Reliance on the SIP here is misplaced because it fails to distinguish between the functions of the SIP versus the CTR. As previously indicated, the CTR establishes water quality criteria that are a part of the state's water quality standards. (40 C.F.R. § 131.38.) The primary purpose of the SIP is to *implement* priority pollutant criteria, including water quality criteria from the CTR. In other words, the actual establishment of hardness-based metals criteria are set forth in the CTR, and subsequently implemented in NPDES permits pursuant to the SIP. Thus, the Proposed Order must rely on the CTR for selecting hardness values because such values are directly linked to derivation of actual criteria. Once applicable water quality criteria are established, the SIP is then triggered for determination of reasonable potential and calculation of effluent limitations. (SIP at p. 6.)

Further, it appears to CASA and Tri-TAC that the Central Valley Regional Water Board appropriately used its discretion to select hardness values. The Central Valley Regional Water Board eliminated hardness values that occurred during wet-weather conditions because they did not reflect the low-flow, design discharge conditions of the receiving water, and because such values did not account for available dilution when such values were measured. Such an approach is consistent with the CTR, which requires hardness be selected for design discharge conditions. The Proposed Order appears to recognize that Regional Water Boards have considerable discretion in the selection of hardness values; however, the proposed conclusion would considerably restrict Regional Water Board discretion by requiring the Central Valley Regional Water Board to use hardness values it specifically excluded for valid, technical reasons. CASA and Tri-TAC are concerned that this Proposed Order will be used to further restrict Regional Water Board discretion in the Central Valley and in other regions of the state.

As a final matter, CASA and Tri-TAC are concerned that the approach contained in the Proposed Order will lead to overly restrictive water quality criteria that are not necessary to protect aquatic life in the receiving water. As a result, publically owned treatment works (POTWs) may receive overly stringent water quality-based effluent limits in permits that are

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difficult to meet, and may trigger the need for expensive facility upgrades that provide no added environmental protection.

Due to these concerns, CASA and Tri-TAC encourage the State Water Board to rescind the portions of the Proposed Order that address hardness, and dismiss CSPA's claims regarding this issue in their entirety.

Sincerely,



Roberta Larson, Director of Legal & Regulatory Affairs  
CASA



Jim Colston, Chair  
Tri-TAC