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Public Works Department
October 29, 2015



Jeanine Townsend, Clerk to the State Water Board
State Water Resources Control Board
PO Box 100
Sacramento, CA 95812-2000

Submitted via e-mail to commentletters@waterboards.ca.gov

Comment Letter - Findings and Recommendations of the Expert Review Panel of the State of California Environmental Laboratory Accreditation Program.

Dear Ms. Townsend:

The City of Benicia (City) appreciates this opportunity to comment on the report and recommendations by the Expert Review Panel (Panel) on the California Environmental Laboratory Accreditation Program (ELAP). The City provides a full range of municipal services to its approximately 28,000 residents and businesses, including operation of a Public Drinking Water System (#4810001) and Wastewater Treatment Plant (NPDES Permit CA0038091).

The City's Laboratory provides drinking water and wastewater analytical services to support regulatory compliance and process control for its drinking water and wastewater operations. The City has two laboratory facilities which have a common staff, management, and quality assurance system, although they are accredited separately by ELAP (Certificates 1510 and 2655).

The City believes that its Laboratory is a typical representative of a large number of small municipal laboratories throughout the State. The City Laboratory has a staff of four full-time analysts and one supervisor, and conducts analyses under a total of 6 Fields of Testing (FOTs) – Microbiology of Drinking Water, Wastewater, and Recreation Water, Inorganic Chemistry of Drinking Water and Wastewater, and Toxicity of Wastewater.

The City concurs with most of the Expert Review Panel findings on the deficiencies of ELAP and its accreditation program, and appreciates the significant effort and expertise that the Panel has brought to bear on this important topic. Since the City is one of many small public agency laboratories, this comment letter will focus on issues of particular importance to similar laboratories.

Public agency laboratories play a critical role in the regulatory programs governing drinking water and wastewater, because these programs are fundamentally based on **self-monitoring by the agencies** providing these services. The City respectfully requests that the State Water Board

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ensure that improvement of ELAP does not result in unnecessary requirements and paperwork burdens on small municipal laboratories that could undermine their ability to meaningfully conduct self-monitoring for their agencies. From that perspective, the City offers the following specific comments:

Fix the most important problem first: ELAP's lack of a management system

The City concurs with the Panel's assessment of ELAP's lack of a meaningful management system that can ensure appropriate consistency and hold ELAP employees accountable. This problem is foundational, and must be addressed first in order for ELAP to have the ability to address other issues and to regain credibility with its stakeholders. The City agrees with the Panel's recommendation that ELAP adopt a management system based on the ISO 17011 standard for accreditation bodies. However, without the initial establishment of such a standard and actions by ELAP management to train ELAP staff and hold them accountable, none of the other recommendations by the Panel can be successfully implemented.

Actions to improve ELAP's management system, combined with staff training and development of standard method-based checklists would solve the vast majority of the problems described by the Panel's Report.

Recognize the challenges of implementing national accreditation standards

Large commercial laboratories doing business in both California and other states face a specific set of difficulties posed by ELAP's deficiencies and non-affiliation with the National Environmental Laboratory Accreditation Program (NELAP), which could most easily be resolved if ELAP was a recognized participant in NELAP. In addition, while the Panel's report identified three options for establishing accreditation standards for ELAP, comments by the panelists during public hearings indicate that they believe that adoption of the The NELAC Institute (TNI) standards would be the simplest and fastest solution to this problem.

The City recognizes the long-term advantages of this option and the likelihood that it will ultimately be chosen by ELAP. However, the TNI standards (or any standard involving a formal quality management system) will require a significant increase in documentation and administrative work that will be a daunting challenge for smaller laboratories like the City's. To address this concern, the City offers the following four recommendations:

- *Recognize accreditation by other states or third-parties using the TNI standards.* This will solve some of the most immediately pressing problems for some stakeholders and reduce ELAP's current backlog.
- *Provide technical assistance to laboratories in implementing a quality management system.* Small laboratories in particular should not be left to "figure it out for themselves". Based on the experience of implementing TNI or similar standards in other states, the State Water Board should provide materials to assist laboratories in setting up a quality management system.

- *Clearly communicate new regulatory requirements.* For many smaller laboratories, implementing TNI or similar standards may require additional resources, which can be a real challenge for small agencies with strained budgets. Clear communication from the State Water Board about new ELAP-related requirements would enable laboratories to successfully work with their City Councils or Boards to obtain necessary resources to implement these changes.
- *Allow sufficient time.* Time will be needed for smaller laboratories, with their limited staff, to set up acceptable quality management systems and to provide additional resources through their agency's budgeting process.

Establish an equitable ELAP fee structure based on number of methods and complexity

The current ELAP fee structure is based on a fixed charge per certificate, and a charge for each FOT for which the laboratory seeks accreditation. The amount of ELAP staff time and resources required to carry out accreditation activities, especially conducting inspections, is directly related to the number of methods and their complexity performed by a given laboratory. Therefore, a fee structure that more heavily weights the number of FOTs or analyses performed by a laboratory better matches ELAP's resource allocation.

A large increase in the base charge per certificate would be unduly burdensome on smaller public agencies, which have budgets with little capacity for increase. This is especially true for agencies like the City which has been deemed by ELAP as operating two laboratories, even though both facilities operate with the same staff members and management systems, and thus pays two per-certificate annual fees. Instead, ELAP should levy variable charges per FOT or analysis based on the resources required for accrediting those methods.

In conclusion, the City agrees with many of the recommendations made by the Panel in its Report. With due consideration given to the challenges that will be faced by smaller public agency laboratories, the City believes that these recommendations will bring about improvements to ELAP, with resulting benefits to environmental data quality and the decision-making supported by that data.

Sincerely,



Daniel Jackson
Water Quality Supervisor
City of Benicia

cc: Graham Wadsworth, Director of Public Works