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Executive Advisory Committee

Stormwater Program – County of Los Angeles

February 5, 2004

Arthur G. Baggett Jr., Chair
Craig J. Wilson, TMDL Listing Unit
Division of Water Quality, State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Subject: Comments on the Draft Water Quality Control Policy for Developing California's CWA Section 303(d) List and Draft Functional Equivalent Document

Dear Chairman Baggett:

At the behest of the Los Angeles County Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) permittees, the Executive Advisory Committee would like to submit the following comments in regards to the subject policy document.

We appreciate that the Board recognized the significant level of local interest in these draft policy documents and chose to hold a hearing in Los Angeles County. The EAC believes that past, current, and future findings and actions in relation to the 303(d) listing and TMDL programs are of significant importance. The effort of the Board to hold this hearing and then carefully consider local agency input is both laudable and welcome.

In many respects, the local 1998 and 2002 303(d) listing processes appeared to border on the capricious, due to pollutant listings that were unidentified (toxicity), the construction and demolition of new lists (watch), wholesale listings and delistings based on scant or dubious data, and conservative water quality objectives (extrapolated CTR standards). We sincerely hope that the final policy document will settle much of the confusion that clouds what should be a transparent regulatory process, thereby allowing our municipal agencies to concentrate on the most significant and achievable water quality issues.

We recommend returning to the multi-list format that appeared in prior drafts and, more importantly, which was consistent with EPA Guidance and the National Academy of Science Report to Congress. As indicated in the prior paragraph, the 1998 and 2002 lists contained impairments based on dubious or inadequate data, that were subsequently rescinded or shuffled to other lists. Other impairments were for "parameters" such as toxicity, indicator organisms or pollutant groups. We request that the monitoring list be reconstituted, so that specific controllable pollutants may be identified prior to TMDL preparation. This will insure that listings result in solid predictable actions aimed at controlling the specific pollutants, which are causing the observed impairment.

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Periodic re-evaluation of contaminant listings should be mandatory and new listings should be balanced by delistings (due to new data or objective achievement) so that a predictable workload exists for both the regulated and regulatory communities.

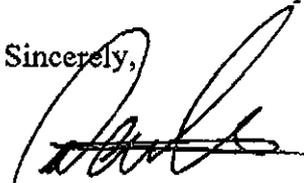
The statistical methods identified in Issue 6 of the Draft Policy are probably the most important aspect of this document. They have the potential to eliminate the perception that some listings have been set arbitrarily, or that delisting is overtly onerous and subject to political decisions that cannot be rationally objectified. With this in mind, we encourage the Water Board staff to carefully review the descriptions and clarify their meanings to the greatest degree possible. The final policy should include additional language with respect to analytical limitations and the confusion resulting from matrix effects, detection/quantification limits and the impact of dubious data for one parameter (hardness) on the standards applied to other correlated parameters (metals).

The discussion on trend analysis should be expanded to consider trends in meteorologic conditions, such as extended droughts or increasing temperature regimes, which may exacerbate or improve contaminant concentrations.

The concept of transitioning numeric water objectives between adjacent receiving water reaches, has already arisen locally as difficult issue to discuss or reconcile in public forums. We are concerned that the utilization of pooled data from different receiving water reach areas will exacerbate the inherent political discord and lead to cases where alternate, but technically equivalent data sets, could independently argue for listing, monitoring, or delisting. This would further obfuscate the process and lead to an increase in the severity of both the volume and tone of the already deafening level of rhetoric.

The EAC appreciates your consideration of these requests and anticipates that the adoption of a modified 303(d) listing policy would reduce the rancor that currently surrounds the TMDL program throughout Los Angeles County.

Sincerely,



Desi Alvarez, P.E.
Chair, Executive Advisory Committee