CALIFORNIA ASSOCIATION of SANITATION AGENCIES

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9/24/13 Board Meeting- Item 7
Cost of Compliance
Deadline: 9/19/13 by 12 noon

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September 19, 2013

Via Electronic Mail

Felicia Marcus, Chair, and Members
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

c/o Ms. Jeanine Townsend, Clerk to the Board
Email: commentletters@waterboards.ca.gov

Re: **Comments on Item 7: Proposed Resolution Relating to Reducing Costs of Compliance While Maintaining Water Quality Protection**

Dear Chair Marcus and Members of the Board:

The California Association of Sanitation Agencies (CASA) appreciates the opportunity to provide comments on State Water Resources Control Board (State Water Board) Resolution No. 2013-___, directing actions in response to efforts by stakeholders on reducing costs of compliance while maintaining water quality protection (hereafter "proposed resolution"). CASA is a statewide association of municipalities, special districts, and joint powers agencies that provide wastewater collection, treatment, resource recovery and water recycling services to millions of Californians. CASA supports adoption of the proposed resolution, which will ensure that this important effort moves forward with specific direction and within clear time frames.

On behalf of the NPDES wastewater stakeholders, CASA has played an active role in the State Water Board's resource alignment initiative and has led the effort to develop several short-term and long-term proposals to reduce the costs of compliance for Publicly Owned Treatment Works (POTWs) while simultaneously maintaining water quality protection. As part of that effort, the NPDES Stakeholder Group submitted the following proposals and presentations highlighting ideas for reducing the costs of compliance:

- NPDES Stakeholder Group Cost Savings Proposals (February 4, 2013)
- NPDES Stakeholder Group Cost Savings Revised Proposals (May 22, 2013)
- NPDES Stakeholder Group Cost Savings Updated Proposals (June 18, 2013)
- NPDES Stakeholder Group June 18 Presentation to State Board (June 18, 2013)

This resolution, and the resource alignment/cost of compliance initiative generally, are particularly timely in light of the regulatory fee increases also being proposed for adoption at

the September 24, 2013 meeting.1 The proposed fee resolution would increase annual fees paid by entities with NPDES permits and waste discharge requirements (WDRs) by 4.1 percent and 27.4 percent respectively. The POTW stakeholders understand that the fee increases are in response to the state budget adopted by the Legislature, but now more than ever it is imperative the State Water Board continue to work with stakeholders, staff, and the Regional Boards to find ways to reduce the costs of compliance while maintaining water quality protections.

A. General Comments on Staff Report and Resolution

We would first like to recognize the ongoing commitment and engagement of the State Water Board members in the resource alignment process, in particular Board Member Doduc, who has worked tirelessly to bring stakeholders and staff together to identify concepts that will reduce the costs of compliance while maintaining water quality. CASA and the POTW stakeholders appreciate that board members and staff have been continuously engaged in this process and have been responsive to the concerns of the stakeholders throughout.

We support adoption of the resolution, and offer comments on certain provisions. We also have provided suggested revisions in the interest of clarifying and improving the language.

First, the NPDES stakeholders recognize that one of our specific proposals, reducing the frequency of sanitary sewer overflow (SSO) reporting requirements from monthly to quarterly for no spill certifications, has already been implemented through modifications to Order 2013-0058-EXEC.2 This is a straightforward amendment with no adverse water quality implications that will save California POTWs more than $100,000 per year, and serves as a prime example of the types of cost of compliance issues that can be addressed through this initiative. As noted in Section B. below, we do recommend that language in the paragraph relating to no spill certifications in individual permits be revised.

We appreciate that the staff report acknowledges the significant potential for cost savings associated with actions that can be taken when renewing or revising NPDES permits, including: removing overlapping monitoring requirements, reducing monitoring frequencies for parameters consistently in compliance, encouraging surrogate sampling, and eliminating unnecessary report could result in potentially significant cost savings.3 Smaller to medium size wastewater facilities can spend anywhere between $500,000 and $900,000 per year on monitoring and reporting requirements, with larger entities spending more than $10 million annually in some cases. In the aggregate, California's wastewater facilities spend hundreds of

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1 Item 8: Proposed Resolution adopting emergency regulations revising the core regulatory fee schedules.

2 Proposed Resolution, Resolved #3 at p. 4. See also Staff Report for Item 7, Recommendation #1 at p. 2.

3 Staff Report for Item 7: Recommendation #3 at p. 2.

millions of dollars each year on monitoring and reporting costs. Self-monitoring and reporting are important foundations of water quality permitting, and we acknowledge that many of these obligations are necessary for the protection of water quality and should continue. As the examples in the POTW stakeholder proposals demonstrate, however, there are a number of duplicative and unnecessary monitoring and reporting requirements that can and should be modified or eliminated without adversely impacting water quality. Addressing these inefficiencies could result in cost savings for POTWs statewide, and even small reductions in costs of compliance could save the state's wastewater agencies tens of millions of dollars each year with no reduction in water quality protection.

Second, we appreciate that the proposed resolution addresses the need for transparent, consistent and efficient processes for issuance and reissuance of individual NPDES permits.4 One of the most notable takeaways from the resource alignment process has been that there exist both good and bad examples of how individual Regional Boards, permit writers, and stakeholders have addressed issues of efficiency in monitoring and reporting programs required under a particular POTW's NPDES permit. Hopefully by working together with the NPDES Roundtable and State Water Board staff, stakeholders can begin to discuss and replicate "success stories" where permittees and staff have identified and eliminated duplicative or unnecessary monitoring and reporting requirements, resulting in significant savings in the costs of compliance with no adverse water quality impacts. This type of transparent and collaborative process will be essential to continuously identifying areas where duplicative or unnecessary monitoring and reporting exist and greater efficiencies can be achieved. The POTW stakeholder also appreciate that there will be a series of "TMDL Roundtable" discussions designed to evaluate best practices related to phased implementation of TMDLs and other issues related to TMDL guidance documents and implementation.5 This was the primary "long-term" proposal suggested by the POTW stakeholders and outcomes from those discussions could represent a marked improvement in water quality regulation that could significantly reduce the costs of compliance and produce better regulatory outcomes.

Finally we appreciate that the State Water Board members and staff are willing to pilot an effort to evaluate, in advance of adoption, the costs of compliance for pending and future regulatory actions that have cost implications for permittees by utilizing some form of the POTW stakeholder initial economic checklist in development of the Biological Objectives Policy.6 We believe it is critical to establish a process to evaluate the costs of compliance for pending and future regulatory actions and that efforts to reduce the costs of compliance would be in vain if new policies and requirements continue to substantially increase costs for permittees through inclusion of same underlying inefficiencies and approaches as existing policies and requirements. CASA and many of the POTW stakeholders are already involved

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4 Proposed Resolution, Resolved #4 at p. 4.

5 Proposed Reoslution. Resolved #7 at p. 4.

6 Staff Report for Item 7: Recommendation #5 at p. 3. See also Proposed Resolution, Resolved #6 at p. 4.

in the Biological Objectives Policy development process and look forward to working with staff to incorporate the economic checklist concept into that process.

B. Specific Comments on Resolution Language

Resolved Paragraph 3 directly ties to "Proposal D" in the June 18, 2013 NPDES stakeholder report, which suggested that there is significant variation and inconsistency in the implementation of the General Order for Sanitary Sewer Systems, Order 2006-003-DWQ ("General Order") that has lead to duplicative and unnecessary reporting at a significant cost of both time and money. We are pleased that the resolution commits the Water Boards to evaluate this inconsistency and examine the appropriateness of additional or duplicative requirements applicable to sanitary sewer systems enrolled under the General Order. We believe it is the State Water Board's intent that in those cases where sanitary sewer systems are permitted under a different or additional mechanism, such as an NPDES permit or individual WDRs, the frequency of no spill certifications should be the same as those under the Monitoring and Reporting Program for the General Order.

As drafted, however, the provision may be read to encourage regulation of sanitary sewer systems other than by the General Order. To remedy this, we suggest the following revisions to Resolved #3 (revisions in underline and strikethrough):

> **Resolved #3 (Proposed Resolution at p. 4):** State Water Board staff, having implemented the recommendation to streamline sanitary sewer spill reporting requirements when no spills have occurred in the revised Monitoring and Reporting Plan for the General Order for Sanitary Sewer Systems, Order 2013-0058-EXEC, shall evaluate and report to the Board by November 19, 2013, with a recommendation concerning the appropriateness of additional or duplicative requirements established by the Regional Water Boards applicable to sanitary sewer systems enrolled under the State Water Board's General Order for Sanitary Sewer Systems, Order 2006-003-DWQ. ~~For~~ In cases where a Regional Water Board determines that ~~additional~~ requirements other than those set forth in the General Order ~~established by a Regional Water Board that~~ are ~~deemed~~ appropriate for a particular sanitary sewer system, the Regional Water Board shall implement ~~a~~ the reduction in frequency of sanitary sewer spill reporting requirements when no spills have occurred, and other cost of compliance reduction factors implemented by Order 2013-0058-EXEC~~, as appropriate~~.

Summary

CASA and the NPDES stakeholders look forward to working with State Water Board members and staff on the implementation phase for the concepts identified in the proposed resolution. It is important that the effort to identify methods of reducing the costs of compliance continues into the future, and we appreciate that the State Water Board is

committed to staying engaged on these issues by requiring a six-month progress report on items identified in the proposed resolution.7

Thank you very much for the opportunity to provide our comments.

Very truly yours,

Adam Link
Director of Government Affairs

cc: Roberta Larson, Executive Director

7 Proposed Resolution, Resolved #8 at p. 5.