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Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, California 95814

Re: COMMENT LETTER – DRAFT DRINKING WATER SYSTEMS GENERAL PERMIT AND RESOLUTION

The Tuolumne Utilities District (TUD) owns and operates 17 public water systems ranging from 24 service connections up to approximately 4,600 service connections. TUD has been closely monitoring the development of the State Water Resources Control Board's (SWRCB) Draft General NPDES Permit for Drinking Water Systems Discharges to Surface Water (Draft Permit).

53.1 After reviewing the Draft Permit, TUD respectfully requests that the adoption of the Draft Permit be postponed until it is rewritten to address the concerns expressed in this letter and those of the many other water districts that have responded. Based on the information provided, we do not believe that the science behind the Draft Order is good and that there are too many unclear and unresolved issues for implementation at this time.

Barring the postponement TUD submits the following comments for the Board's consideration.

53.2 1. Although TUD has staff and the organizational capability of complying with new regulations, there are over 130 small private water companies in Tuolumne County, many of which provide water to more than 15 service connections, to at least 25 individuals, at least 60 days each year. The criteria of using service connections to determine coverage under the permit seems arbitrary. TUD suggests that feet of distribution system pipeline would be a better indicator of the amount of flushing that a system requires and also the occurrences of "unplanned" discharges, i.e. main breaks.

53.3 2. Per Fact Sheet Section III.A: The proposed order***....."shall serve as an NPDES permit for point source discharges from multiple discharge points to surface waters, storm drains, and other storm water conveyances leading to surface waters."*** Being subject to an NPDES permit with multiple discharge points exposes responsible public agencies to increased liability and risk of 3rd party lawsuits. Over just the past few years, public agencies have paid out millions of dollars to settle lawsuits related to sanitary sewer overflows, many of which were only a few gallons. That money could have gone toward making infrastructure improvements, but instead, went into litigation and lawyer's fees and further funded more 3rd party litigation. TUD hopes that safeguards are in place to ensure that public agencies don't get taken advantage of while trying to comply with this Draft Order.

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3. Per Monitoring and Reporting Program Section II.B: ***"The Discharger shall monitor all other non-direct discharges (those with more than 300 feet from a surface water) based on representative monitoring."*** It further states, ***"The representative monitoring locations shall be determined by evaluating a location in which a sample taken at the location will represent all discharges from the system that have the following items in common:***

   a. ***The same general water source***
   b. ***The same water treatment, and***
   c. ***The same series of implemented BMPs"***

TUD interprets this to mean that at a minimum it would monitor 17 discharge points that correspond with its 17 water systems, assuming each system has different water sources or treatment systems. TUD questions the validity of this form of representative monitoring and believes it creates more regulatory complexity and paperwork. Why not simply require all discharges implement a set of BMPs and do a one-time evaluation of those BMPs? If a discharger elected to not implement the BMPs then it would be incumbent on the discharger to prove to the RWQCB that their specific discharge at their specific discharge point did not need BMPs. This would be a much simpler and direct regulatory approach.

Furthermore, all drinking water systems are obligated to meet the same drinking water standards. If a suite of BMPs will be protective for water that is at the Drinking Water Primary and Secondary MCLs then it should not matter what the water source is or the type of upstream treatment. The exception being chlorinated discharges that exceed 2.5 ppm, which could require a special set of BMPs. On the whole, monitoring 17 sites seems unnecessarily burdensome.

53.5

4. Per Example Best Management Practices Section I.A: ***"All treated drinking water shall be dechlorinated, filter bags or rolls, or equivalent shall be used to remove any sand, silt, or debris from entering the surface water or storm drain system."*** Please note that effective flushing requires achieving a specific flow velocity in the water main. Placement of downstream controls, such as filter bags or rolls, effectively limits the operator's ability to reach the flow velocity needed to effectively clean or scour the pipe. Additional research is needed to describe how to implement a BMP so that it doesn't adversely impact the overall purpose of distribution system flushing. We believe that this requirement will negatively impact drinking water quality.

In our area of the Sierras, at about 2000-feet in elevation and higher, unmeasured amounts of sand and de-icing chemicals are applied to the highways and local roadways during snow storms and icy conditions. The sand and chemicals are allowed to run into potential receiving waters when the temperature warms up and snow and ice thaws, how will this be regulated? Are water agencies going to be required to clean up the sand and de-icing chemicals placed by the State and others?

53.6

5. Is there a volume exemption for discharges that are within 300 feet of a water of the U.S. but are so small they constitute minimal risk to surface waters? During the summer months about 50% of TUD's demand for treated water is used for watering lawns, washing vehicles, boats, trailers, and the washing of sidewalks and driveways. Some percentage of this water runs off and potentially makes its way to receiving waters. How will this be regulated?

53.7 6. How are fire departments going to be regulated under this Draft Order? Will Fire Departments as dischargers be responsible to implement the same BMPs and conduct some of the representative monitoring? Some systems are not regulated by DPH or the local water agency, but use water from the public water system to fill storage tanks and utilize on-site fire hydrants for fire suppression. Many shopping centers and industrial complexes have on-site fire protection systems, including hydrants that the local fire agency may test and exercise from time to time. How are these situations going to be addressed?

53.8 7. Per Fact Sheet Section VI.B.4***: "The total chlorine residual WQBEL is 0.019 mg/L based on U.S. EPA's acute water quality criterion for chlorine, which is expressed as a one-hour average. The numeric WQBEL for total residual chlorine is applicable to the following discharges: (1) superchlorinated discharge, and (2) chlorinated discharges located within 300 feet of a receiving water body. These discharges pose a reasonable potential to cause exceedance of water quality objective for toxicity in the receiving water due to the elevated residual chlorine concentrations found in super-chlorinated water and proximity to receiving waters."*** The nexus between elevated residual chlorine concentrations and proximity to receiving waters is weak. The reasonable potential analysis fails to take into account flow path length, type of surface the discharge is running over, volume of the discharge, dilution with receiving waters, and ambient temperature.

"According to a controlled field study conducted by East Bay Municipal Utilities District (EBMUD), when dechlorination BMPs are properly implemented, the total chlorine residual concentration in chlorinated discharges is fully neutralized within 200 feet to concentrations below a minimum level of 0.1 mg/L (Tikkanen et. al, 2001, Guidance Manual for Disposal of Chlorinated Water). The study analyzed samples from nine fire hydrants discharging at varying flow rates and treated with dechlorination BMPs within the EBMUD jurisdiction. Similarly, the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) analyzed samples from ten fire hydrants discharging at varying flow rates and treated with dechlorination BMPs in the Cities of Palo Alto, San Jose and Sunnyvale. Based on the SCVURPPP study, eight of the discharge events monitored achieved full neutralization (to concentrations below 0.1 mg/L) by 160 feet. The two remaining discharge events spiked above the minimum level of 0.1 mg/L, but ultimately achieved full neutralization within 425 feet. The spike in concentration was suspected to be due to turbidity interference."

"Based on these data, the State Water Board determines that discharges where dechlorination BMPs have been properly implemented that are more than 300 feet from a receiving water body do not pose a reasonable potential to exceed the applicable total residual chlorine water quality objective. Thus, the numeric WQBEL is not applicable to such discharges."

53.9 So the Draft Order which will impact thousands of water systems and millions of California residents is being based on results from 27 fire hydrants with water originating from 5 different agencies? The basis for reasonable potential seems to lack statistical significance. On one hand the Draft Order emphasizes representative sampling, on the other hand it bases its numeric

53.0 cont. WQBEL on a total of 27 sample sites, two of which had suspected interferences, not even confirmed interferences. This doesn't seem like a representative sample population in which to base development of the proposed regulation.

53.10 Further contributing to a lack of credibility of the science behind the Draft Order is that it doesn't describe what dechlorination BMPs were implemented so the reproducibility of these results is questionable unless each water agency is implementing the same BMPs for dechlorination.

53.11 As a water agency, we are constantly forced to prioritize cost of service vs quality of service vs level of regulatory compliance and justify our decisions to our rate-payers. Although we appreciate and recognize the importance of protecting Waters of the U.S., there needs to be a cost benefit analysis associated with the proposed regulation. Although implementation of the Draft Order may seem like a small cost in comparison to our District's overall operating budget, the effects of these types of regulations are cumulative. Please consider our comments when revising the Draft Order.

Sincerely,

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