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Subject: Comment Letter – ELAP Regulations Development/Laboratory Standard

To the Members of the State Water Resources Control Board,

On September 6, 2016 the State Board gave notice that they would be holding a Workshop on proposed changes to the laboratory accreditation regulations. The deadline for the submittal of comments is noon, Friday September 16, 2016 which is nine and one half working days. The focus of the proposed changes is the Environmental Laboratory Accreditation Program's (ELAP) proposal to use Volume 1 of The NELAC Institute's (TNI) 2016 documents as the basis for laboratory accreditation. The following comments that I am submitting to the Board for consideration on this topic are from a template letter but I agree strongly with them with a few minor additions of my own.

- 1) California has more accredited environmental laboratories than any other state. This is a huge and important resource for the people of California for the protection of human health and the environment which should be encouraged to grow. Laboratories accredited by ELAP with only one or two full time staff members are very common (my lab has a staff of 1.5 persons not including me as lab director) and most have five or fewer. This allows many smaller and more remote facilities to be able to have their own laboratory out on the front line. We believe that the State Board should do all it can to encourage the existence and expansion of environmental laboratories in general and those associated with utilities in smaller and more remote locations in particular. The importance of these small labs cannot be overstated since timeliness is often critical in making decisions on operational changes at treatment plants or rapid follow-up testing when positive coliform test results are found in drinking water samples. The time it takes to send a sample to a commercial lab and get them to provide immediate results can be problematic to say the least.
- 2) The scope of the proposed changes are enormous. ELAP is proposing to completely change how it accredits laboratories. Such an momentous endeavor has to be addressed with great care and thoroughness. Experience in other states, such as Florida and New York where all accredited laboratories were required to be TNI compliant, has shown that many smaller laboratories closed. If for no other reason, this experience should give pause to the State Board in how it moves forward with any proposal to incorporate TNI documents into California's accreditation standards. If the Board wishes to eliminate as many laboratories as possible, this is certainly a very effective means of doing so. Does this mean the State has some vested interests in only having large municipally or commercially operated laboratories?
- 3) The TNI documents are not publically available. They have to be purchased from TNI for \$130. It seems patently unfair to require the public to purchase documents in order to simply comment on a proposed change to regulation. This contrary to all past practice where the public has had access to proposed changes in language. It is hard to see how this comports with the intent of the Administrative Procedures Act (APA) which attempts to maximize openness and transparency of the rule making process. Indeed, requiring the purchase of documents would appear to be contrary to the requirements of the APA.

- 4) The 2016 TNI document is nearly 200 pages long. It seems entirely unreasonable to expect potentially impacted parties to first purchase this document, read it, and then prepare intelligent comments in so short a period of time. The majority of laboratories accredited by ELAP have a small number of employees. It is extremely difficult for laboratories such as these to commit the resources needed to read such a large document at all, with much less in just a few days. I have looked at older TNI standards and those of other states but have only had time to do a cursory scan and still manage my laboratory as well as other engineering duties. The sheer volume of documentation that I have seen will take more time than I have by the comment submission deadline.

- 5) I join with the other small laboratories in California in strongly urging the State Board to significantly postpone this workshop and greatly extend the comment period. It is also extremely important the proposed documents that would form the core of ELAP's new regulations be made publically available for free.

Respectfully submitted,
BRACEWELL ENGINEERING, INC.



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cc: BEI Office