



May 1, 2017

Felicia Marcus, Chair
California State Water Resources Control Board
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Submitted via email to: commentletters@waterboards.ca.gov

Subject: ELAP Year 2 ERP Report, Expert Review Panel Report and TNI

The Southern California Association of POTWs ("SCAP") appreciates the opportunity to provide comments to the State Water Resources Control Board ("Water Board") on the recommendations of the Expert Review Panel ("ERP") about how the Environmental Laboratory Accreditation Program ("ELAP") can be improved. SCAP represents 83 public agencies that provide essential water supply and wastewater treatment to nearly 19 million people in Los Angeles, Orange, San Diego, Santa Barbara, Riverside, San Bernardino and Ventura counties.

SCAP supports most the recommendations of the ERP. The ERP has clearly put a great deal of effort into its report and SCAP would like to knowledge that and thank the ERP for those efforts. However, there are two issues that SCAP firmly disagrees with.

- 1) The ERP is recommending that ELAP either use itself or require individual laboratories use Third Part Assessors (TPAs) for On-Site Assessments (OSA). OSAs are a core function of ELAP and essential to the laboratory accreditation process. The State of California has been accrediting laboratories since 1952 and has always used its own staff to conduct OSAs. Title 22 specifies that OSA should occur every two years and ELAP has largely, although unevenly, kept to that schedule. ELAP's staff and authorized budget has not changed substantially over the years save for adjustments for inflation. SCAP sees no reason ELAP cannot continue to meet this schedule and thus sees no reason for either ELAP or individual laboratories to contract with TPAs. This appears to be an issue of resource allocation, if ELAP will allocate its resources to support the OSA component of its program it should be able to stay to its required schedule. The ERP has suggested that ELAP is unable to hire and retain adequate numbers of sufficiently skilled and trained staff members however the State Board recently spent over one million dollars in training on its staff to give them the necessary knowledge to be successful laboratory assessors.

If those assessors are deployed to support the OSA efforts, ELAP should be able to meet its needs. If in fact ELAP is unable to acquire sufficient staff, the problem is not likely to be solved by TPAs. There are over 600 laboratories that physically located in the State of California, there are simply not enough TPAs currently in business service even a fraction of those laboratories. If in fact there is a shortage of qualified individuals, all that that contracting with TPAs does is change an employee problem into a contractor problem. If ELAP cannot find and train enough qualified staff, then why should a contractor be able to do that?

- 2) The ERP is also recommending that ELAP require all laboratories comply with the requirements of The NELAC Institute (TNI) as a condition of accreditation, or possibly a modified version of the TNI requirements (this part is unclear). SCAP does not believe that this is in the best interests of its membership or of protecting human health and the environment. SCAP believes that the people of California are best served by having the largest number of environmental laboratories that will produce high quality results. The difficulty with requiring TNI compliance is that there are quite literally thousands of separate requirements, most of which are merely recordkeeping or reporting requirements that do not provide any tangible improvements to quality of laboratory results. Even the smallest laboratory needs to comply with over 1,200 separate provisions in just Volume 1 of the TNI Standards. More importantly, the burden of complying with and documenting compliance with these many hundreds of provisions can be crippling. Last October at a previous Board Workshop there was a presentation showing that when TNI was made mandatory in Florida and New York, large numbers of laboratories left the accreditation program. These were both privately and publicly owned laboratories. At that Board Workshop, Board members indicated that ELAP staff would “whittle down” the TNI documents to a workable size, the phrases “TNI Minus” or “TNI Lite” were offered as descriptions of the final product. However, since then the opposite has occurred. While scores of recommendations for lightening TNI were offered, in fact hardly a handful of provisions were recommended to be deleted. Most recommendations were simply rejected outright but a few dozen “modifications” suggested. So, what appears to be moving forward is the entire TNI set of standards with thousands of provisions plus a few score modifications. This would seem to be now TNI Plus rather than TNI Minus. The standards became more complicated, rather than less so. This provides no relief to laboratories of any size or type. The exactly nature of the proposal is as noted above unclear. The ERP is recommending that ELAP not modify the TNI standard at all but ELAP is suggesting that the modifications be made in some sort of parallel regulatory document. Additionally, the TNI documents are copyright protected and not normally publicly available without purchase. It is very unclear how this would work.

SCAP is also concerned about the costs of these proposals. ELAP only just recently implemented two fees increases, doubling the fees paid by all laboratories. It was explained that ELAP is supposed to be an entirely fee supported and that while it was a part of the Department of Public Health it did not actually function in that manner so that a fee increase was necessary to fully fund ELAP through fees. Both proposals would substantially increase costs for accreditation. TPAs will be very expensive no matter who they contract with, ELAP or individual laboratories. TNI with its vast number of accreditation provisions will require a great deal more labor time by both

laboratories and ELAP. It does not seem reasonable for ELAP increase fees so dramatically so quickly for efforts that do not seem to provide much benefit to any party.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve Jepsen". The signature is fluid and cursive, with the first name "Steve" and last name "Jepsen" clearly distinguishable.

Steve Jepsen, Executive Director

SCAP