



The July 11, 2002 meeting will be held at:

**Holiday Inn Oakland Airport
500 Hegenberger Road
Oakland, CA 94621
(510) 562-5311**

**General Meeting & Water Committee – Athletics 1&2, Warriors 1
Land Committee – Coliseum 3**

TRI-TAC MEETING

THURSDAY, JULY 11, 2002
9:00 A.M. – 12:00 P.M.

HOLIDAY INN OAKLAND AIRPORT
500 HEGENBERGER ROAD
OAKLAND, CA 94621
(510) 562-5311

9:00 A.M. – GENERAL MEETING

ATTACHMENTS

1. INTRODUCTIONS
2. APPROVAL OF THE JUNE 13, 2002 –
TRI-TAC MEETING SUMMARY/ACTION ITEMS PAGES 5-14
3. FUTURE MEETING SCHEDULE PAGES 15-16
4. TRI-TAC ROSTER PAGES 17-22
5. COMMITTEE ASSIGNMENTS PAGE 23
6. COMMITTEE ISSUE SUMMARIES PAGES 24-52
7. OTHER BUSINESS/NEW ISSUES

9:00 A.M. – 11:30 A.M. – COMMITTEE MEETINGS

ALL COMMITTEES WILL MEET SEPARATELY

11:30 A.M. – GENERAL MEETING REPORT

COMMITTEE REPORTS

- A. LAND
- B. WATER

12:00 P.M. - ADJOURN

LAND COMMITTEE AGENDA
July 11, 2002

	<u>Who</u>	<u>Time</u>
<u>A. Agenda Review and Approval</u>		
<u>B. Committee Action Items</u>		
1. Biosolids Recyclers of CA, status, flyer	Ed McCormick/Bobbi Larson	30 min.
2. SWRCB Biosolids Final EIR & Lawsuit	Layne Baroldi/Bobbi Larson	5 min.
3. POPS/Biosolids Calendar for EPA/CASA	Bob Gillette/Layne Baroldi	5 min.
4. Model Biosolids Contract/RFP	Ann Briggs	5 min.
5. 40CFR 503 Dioxin Regulations/Data	Diane Gilbert	5 min.
6. Radioactivity Testing, Dose Modeling & Guidance	Diane Gilbert	5 min.
7. CIWMB Compostable Organic Mtls. Regs.	Dianne Gilbert	10 min.
8. SCAQMD Proposed Rule 1133-Composting Opns.	Layne Baroldi	5 min.
9. DTSC Mercury Regulations	Layne Baroldi	5 min.
10. AB 2356	Layne Baroldi	5 min.
<u>C. Information and Discussion Items</u>		
Local Ordinances		
• Kern County	Layne Baroldi	5 min.
• Kings County	Layne Baroldi	5 min.
• San Luis Obispo County	Bob Gillette/Diane Gilbert	5 min.
• Riverside County	Anne Briggs/Layne Baroldi	5 min.
• Synagro Facility	Anne Briggs/Layne Baroldi	2 min.
• Alameda County Composting	Ed McCormick	5 min.
• Solano County	Ed McCormick	10 min.
New Biosolids Contracts	Ed McCormick	5 min.
NAS Review of Sewage Sludge Regulations	Layne Baroldi/Mike Moore	10 min.
OIG Report	Layne Baroldi	5 min.
<u>E. Other</u>	All	<u>10 min.</u>
		120 min.

The July 11, 2002 Water Committee Agenda will be sent separately from this Meeting Package.

MEETING SUMMARY
THURSDAY, JUNE 13, 2002
HOLIDAY INN OAKLAND AIRPORT
OAKLAND, CA

SUBCOMMITTEE ISSUES AND GENERAL MEETING

THE FOLLOWING MEMBERS AND INTERESTED PARTIES WERE PRESENT:

Layne Baroldi, OCS D	John Schroeter, EBMUD
Melissa Thorne, DBSR	Larry Wasserman, City of San Diego
Nicole Granquist, DBSR	Rich Luthy, Fairfield-Suisin
Shahrouzeh Saneie, City of LA	Jim Kelly, Central Contra Costa Sanitary District
Patrick Griffith, LACSD	Margie Nellor, LACSD
Daniel McGivney, EMWD	Jim Colston, OCS D
Paul Paul	Monica Oakley, LWA
Ben Horenstein, EBMUD	David Williams, EBMUD
Dave Tucker, City of Merced	Bob Gillette, Carollo Engineers
Keith Smith, City of Davis	Chuck Weir, EBDA
Gail Chesler, CCCSD	Ed McCormick, EBMUD
Steve Medberry, SFPUC	
Michelle Pla, CH2M HILL	
Tom Hall, EOA	
Bob Reid, WVSD	
Tom Grovhoug, Larry Walker Associates	
Rod Cruze, City of Riverside	
Jack Nelson, Yucaipa Valley Water District	
Valerie Housel, San Bernardino Water	
David Tompkins, City of Vacaville	
Ray von Dohren, Carmel Area Wastewater District	

Announcements and Discussion Items

Approval of Last Meeting's Action Items

Future Meeting Schedule

Announcements

AIR COMMITTEE MINUTES FROM JUNE 13, 2002 MEETING – DANIEL MCGIVNEY AND JAY WITHERSPOON

1. **Review of Annual Meeting w/ARB** – A few weeks ago, members of the air committee met with the ARB concerning the proposed air toxic control measures (ATCMs) for stationary engines (emergency and full-time use). A draft regulation is out and comments were provided. The meeting went well and the ARB is making revisions based on our input. However, there are still some outstanding issues such as the exemption criteria and the definition of emergency. Other ATCMs are being developed for portable engines, on-road mobile sources (heavy-duty trucks), and off-road mobile sources (construction equipment).
2. **SCAQMD Proposed Rule 1133 Regulating Composting Operations & SCAP Aerated Static Pile Compost Emissions Study – Update – The SCAQMD** performed a technology assessment a few months ago that was presented to its Governing Board. Based on SCAQMD Governing Board direction, proposed Rule 1133 will be divided up into a series of rules (separate rules for green waste composting, biosolids co-composting, and chipping and grinding), rather than one comprehensive rule addressing all types of composting and chipping and grinding operations. Currently, the SCAQMD is waiting for the SCAP compost emissions study data to help support its rule development with regard to the biosolids co-composting rule. Regarding the SCAP compost emissions study, SCAP will be building the first formal test pile on July 2. Then an additional 2 piles will be built, each staggered by a week or two. This will allow SCAP to efficiently collect data from different aged piles in our attempt to capture the life-cycle emissions profile of the aerated static pile composting operation. The data collection phase of the study should be complete by the end of September. A final report should be available by late October.
3. **Draft Carcinogenic Risk Assessments/Guidelines** - The OEHHA has proposed for adoption, new guidelines for carcinogenic risk assessment which are proposed for use in the AB 2588 Toxic Hot Spots program. Additionally, these new guidelines will be required for use in permitting as well. The use of the new guidelines will apparently increase a facility's carcinogenic risk as much as 25-30% when compared with that risk generated using the current guidelines. The current guidelines are based on being protective of the average person (50th percentile); the proposed draft guidelines are based on the 95th percentile, so they are being protective of the elderly, asthmatics, and children. Use of the new risk assessment guidelines will have significant impact upon facilities that are at, or near, the AB 2588 risk reduction threshold. It could also have significant impact upon future projects where the local agency requires a carcinogenic risk assessment as part of the permitting process.
4. **SB28XX – SB28XX** requires the State to adopt regulations to establish standards for electrical generating facilities and equipment. Initially, any business doing power generation would have been held to these rules. However, the ARB changed its mind

and now co-gen units and those units combusting bio-fuels will not be covered by this regulation (as long as the electrical generation is for on-site use). All Agencies need to look at the current list of affected companies to determine if they are still on the list, and if so, make a formal request to be de-listed.

LAND COMMITTEE MINUTES FROM JUNE 13, 2002 MEETING
LAYNE BAROLDI AND ROBERT GILLETTE

A. Committee Action Items

1. **AB 2356** – An Assembly Bill on the regulation of the herbicide copyrolid. Tri-TAC drafted a letter in support of the legislation on behalf of CASA. The Bill has moved on to the Senate Environmental Quality Committee. It looks like there is no opposition to the research into copyrolid. As a result of that, it looks like the bill will move forward without any problems. Bobbi Larson will send a letter in support of the bill under CASA letterhead to the Senate Environmental Quality Committee

Contact Layne Baroldi – OCSD and Bobbi Larson - CASA

2. **CASA Biosolids Recycling Program** – The executive committee has approved, in concept, moving ahead with a statewide biosolids management organization as long as the funding can be approved. BACWA has approved funding for the next 3 years in support of the CASA program and it looks like it's just a matter of getting the funding in place to move ahead. We'll need to move ahead and attempt to get EPA to commit to doing that funding at the present time.

Contact: Ed McCormick - EBMUD

3. **Dioxins** – There is a new federal register publication published on dioxins. It basically says that, based on our analysis, it doesn't look like dioxins are a major concern as far as land of biosolids application goes. EPA is asking for comments on 12 questions on the proposed regulations. The comments are due back by September 12, 2002. They are questions like "Do we need to do regulations at the present time?" "Is the 300 ppt a good number to use?" "Should it be on a voluntary basis, unless you test and see that there is a problem?" We're looking into that and looking at putting together a letter back to EPA.

Contact: Diane Gilbert – City of LA

B. Information and Discussion Items

1. Local Ordinances

- **Kern County** – There was a "trial" on June 3. The Tulare County Superior Court Judge Paul Vortmann said no oral testimony would be allowed and the "trial" will be heard, just allowing evidence in from the administrative record. Judge Vortmann eventually modified his opinion and will now allow into evidence written briefs that are due from the agencies on July 15. Kern County has to respond by August 9, 2002. A ruling will be made subsequent to that.

Contact: Layne Baroldi - OCSD

- **Kings County** – Several biosolids-related activities are occurring in Kings County. There's a large proposed composting facility that is going through the permitting process

that is moving ahead in the Kettlemen City area. In addition to that, a lawsuit that was filed by Orange County to extend the life of their site's local Class B biosolids land application permit, also, an appeal has been filed by McCarthy Farms to be able to continue to apply land Class B biosolids for another 12 years. This appeal has been postponed to July 16. There's also an appeal of the CEQA process that implemented the Kings County Biosolids Ordinance that has been filed by Shaen Magan of Tule Ranch.

Contact: Layne Baroldi - OCSD

- **Riverside County** - It looks like the County staff is drafting an ordinance to regulate Class A biosolids land application. It does not seem like any formal action will be taken on this draft ordinance by the Riverside County Board of Supervisors. Therefore, the implementation of this ordinance isn't really clear right now, but there is a potential that if Class A biosolids use in Riverside County causes concern that a formal act on a Class A biosolids ordinance may occur..

Contact: Anne Briggs – EMWD, Layne Baroldi - OCSD

- **Solano County** – Jeffrey Bell from Solano County and Lauren Fondahl from the EPA came to talk about Solano County and concerns that have been raised there. Evidently, a resident of Solano County has gone to the Board of Supervisors and requested that they reopen their biosolids ordinance and look into changing the ordinance at the present time. We're looking at the possible reasons for this activity; there are concerns about odors and plastics and syringes in some of the biosolids that have been land applied in Solano County. Lauren and Jeff both indicated that they had not seen the inorganics in the biosolids that had been land applied but that they were concerned about it as well and that odors are a serious concern. We're trying to figure out ways to help Jeff out with his ordinance. This will go back to the Board of Supervisors on August 13, 2002. Solano County does not have a requirement to incorporate at the present time and that might be something that they are considering looking into further as well.

Contact: Ed McCormick – EBMUD, Bob Gillette Carollo

WATER COMMITTEE MINUTES FROM JUNE 13, 2002 MEETING **JIM COLSTON AND MONICA OAKLEY**

A. Committee Action Items

1. **Endocrine Disruptors and Pharmaceuticals** - It is proposed to warehouse available information regarding endocrine disruptors and pharmaceuticals, possibly through a website, so that members have access to it. A brief review has revealed that much information has been developed through university and consultant sponsored research. This information will become more important in the coming years in the permitting process as issues related to these chemicals arise. Currently interested members include Margie, Bobbi, Sharon Roger, Steve, Valerie, Dave Tucker, and Jim Colston. Jim Colston will take the lead to contact these members for a conference call to discuss our next actions.
2. **Wet Weather/Blending Guidance Comments** - Ben Horenstein coordinated an effort to submit comments to EPA in response to EPA draft guidance documents. The comments focused on the three main issues raised in the draft. The Draft indicated that all flow equalization should be done prior to blending; however, the design of the EBMUD wet weather system has peak excess flow treatment facilities that use equalization after blending. This system works well for them from a water quality and operational perspective. The letter asked for flexibility on this issue. The priority for the guidance document, with respect to wet weather impacts, should be to keep untreated overflows from flowing onto city streets, not specifying treatment strategies.

B. Updates

3. NPDES Permitting

- **EBMUD** – EBMUD had a workshop with the State Board in response to their draft order. EBMUD and BACWA appealed EBMUD's permit. There was a lot of discussion on both the EBMUD and Chevron NPDES permits as there were a number of common issues. The most controversial issue was dilution. The SWRCB said that the SIP overrides the basin plan which could negate dilution for non-bioaccumulative pollutants, as provided for in the San Francisco Basin Plan. The SWRCB staff is going to redraft the order, in particular with regard to dilution, and send out for comments. The SWRCB may convene a workgroup on the SIP to discuss outstanding issues.
- **Vacaville** – The City has been working with Congressman Miller's office to address the NPDES permit. The EPA will provide money to conduct three UAAs, including the MUN and COLD water designations. Tetra Tech was hired to do the work, and the intention is to set up these UAAs as models for other to use in the State. More information will be provided as this develops.
- **Napa** – The Regional Board has indicated an interest in moving forward with implementing the remand order that was given by the State Board last December even

though the judge presiding over the appeal has indicated that he's going to rule sometime in the near future on whether or not the Regional Board can act. The Regional Board is planning to adopt a permit amendment that addresses the issues in the remand order.

- **City of San Diego** – The City has appealed to the State Board the decision by the San Diego Regional Board to lower the mass emissions limit from 15,000 to 14,000 in the draft order developed by the EPA and their staff. The Coastal Commission is waiting to hear the outcome of the appeal before acting further on their denial of consistency.
- **LACSD** – There are seven permits ready for renewal including five where the process has been going on for over two years. The issue of MUN-based permit limits was resolved as a result of LACSD's litigation against EPA, and that use designation no longer has any legal standing. However, the Regional Board has taken on a new approach on how they can put toxics limits in our permits. We have two draft orders that were issued in April for two facilities that discharge to lined concrete channels. Even though the county has banned fishing and swimming in the concrete lined channels, as noted in the basin plan, the channels are designated at REC1. Nevertheless, because people have been observed fishing, the Regional Board wants to protect that use. On this basis, Aquatic Life criteria are driving the permit. A third permit renewal draft was received in May for one of our facilities that also includes groundwater recharge as a beneficial use, and the Regional Board staff has decided to put Department of Health Services Title 22 limits into the permit as effluent limits. These permits are going to be heard July 11.
- **Goleta Sanitary District** – EPA issued a tentative decision to grant their CWA Section 301(h) waiver again, and after the Regional Board members closed the hearing to any further public comments, they instructed the staff to go back and create findings so they could deny the permit. Their new reasons and their new findings are based on a number of novel issues as well as antidegradation. They were scheduled to have a hearing on May 31 but that has been postponed until July 19. Goleta is in the Central Coast Region.

4. **303(d) List and Total Maximum Daily Load Issues**

- **State Litigation** – No report.
- **SWRCB/RWQCBs 303(d) Listing Process**
 - **CASA/Tri-TAC Comments** – There is a letter in the packet. The comment period has been extended until June 15 so that you still have an opportunity to provide them with new data or information. A few of the points made in the letter include: support of the establishment of the watch list; support delisting where impairment is due to natural conditions or delisting where there is no data to show impairment of beneficial uses; delisting where the listings are based on elevated data levels; reevaluation of those waterbodies on the 1998 list where they've been grandfathered in without new data review; lack of water quality objectives; lack of data; and to allow for the development of site-specific objectives.

- **USEPA Comments** – The EPA complimented the State on a much-improved process, but they said there are still some things that will prevent them from approving the list as it stands. They need to add justification in a number of areas: why they put things on the watch list; TMDL documentation; and regarding the threatened waters issue. EPA’s current position is that they could not approve it as written.
- **Nonpoint Sources: Pronsolino 9th Circuit Court of Appeals Decision** – This is the case from the Garcia River TMDL for sediment. The nonpoint source community appealed the TMDL saying that nonpoint sources are not subject to nonpoint source only listed waters. The 9th Circuit Court of Appeals division upheld the finding that nonpoint sources are part of the TMDL program. The next challenge will be to pull exempted sources into the TMDL program.

5. **Water Quality Standards**

- **Effluent Trading – EPA Draft Policy** – They seemed to listen to what AMSA had to say. It aims in a direction that we were hoping, which is to facilitate trade incentives for a voluntary program. Generally a positive direction as a policy statement. It emphasizes trading for nutrients but it opens the door to other pollutants and to cross pollutant trading. It basically says that you have to trade within your watershed. They recognized that the 1996 trading framework has gone nowhere in response to the bar that was set. The lowering of expectations by EPA is what it takes to qualify for trading. There’s a general sense that EPA Region 9 and the State Board are positive on trading. It also allows for trading before or after a TMDL. Tom Grovhaug will send a letter of support. Deadline for comments is July 1.
- **Nutrient Criteria Development by EPA** – Tri-TAC’s representatives put forward a proposal for developing nutrient criteria concerning phosphorus and nitrogen as an alternative to what is being proposed by the SWRCB. The SWRCB, through their contractor, is proposing to break the State up into lots of different categories or waterbodies, collect data for each of those categories, and apply these same values to the similarly identified categories. Tri-TAC’s proposal went in to Tetra Tech, and it was distributed to everyone in the group. Tetra Tech is reviewing the workplan, and they will submit it to the SWRCB.
- **EPA Symposium on Designated Uses** – LACSD was one of a few POTWs to get an abstract accepted for the June 3-4 conference in Washington, DC. There were about 200 people that attended among a mixed group of stakeholder. The environmentalists that attended were concerned that UAAs and use refinements are just going to be a way around the Clean Water Act, and everyone else wants uses to be reasonable and attainable. EPA didn’t really engage in the process, but they listened to the proceedings. At the conclusion of the symposium EPA talked about their plans to draft guidance soon to deal with recreational uses; existing uses; prohibited or illegal uses; amount and types

of data required to establish an existing use; and evaluation of non-human sources. LACSD's presentation dealt with their local recreational waters, as mentioned above.

- **Draft Strategy for Water Quality Standards and Criteria** – EPA is trying to revamp the Water Quality Standards Program and has developed a draft document called “Strategy for Water Quality Standards and Criteria, Strengthening the Foundation of Programs to Protect and Restore the Nation’s Waters.” This is a draft document intended to focus on the efforts of producing water quality standards in general and related efforts such as revising EPA’s 1994 Water Quality Standards Handbook. Comments are due July 15. Margie, Larry, Michelle, Dave, Melissa, Jim, Gail, and Tom, will develop comments.
- **Ocean Plan Update** – No currently available schedule for an update on the California Ocean Plan. During the last update, the SWRCB did not revise bacterial objectives to make them consistent with the beach sanitation standards adopted pursuant to AB 411 (1997), but there is now interest at the State Water Board to do just that. The impact of that might be significant, especially for the Bay Area, since AB411 only applies to beaches with over 50,000 visitors, frequently found in Southern California, and during the dry-weather period (April – October).
- **Implementation Guidelines for Water Quality Criteria for Bacteria** –Draft document deadline for comments is August 2. Monica will forward to Water Committee for discussion at the July 11 meeting.
- **Draft Action Plan for the Development of a Framework for Metals Assessment and Guidance for Characterizing and Ranking Metals** – This is a preliminary document that has been issued in draft format that talks about the development of these two guidances: the framework for metal assessment and guidance for characterizing and ranking metals. The purpose of the action plan is to establish a process for developing guidance that will assure a complete application of scientific principals for assessing hazard and risk for metals; science applications articulating assumptions amongst uncertainties and flexibility. This particular document talks about chemical speciation; bioavailability; bioaccumulation; persistence, and relative toxicities. Pieces will go into the framework for metals discussions, and that document is anticipated to completed by the end of 2003 with the guidance for characterizing and ranking metals after that. This is an opportunity to get in on the ground level to comment on any of the preliminary information. Comments are due July 2.

6. **Sanitary Sewer Overflows**

- **AMSA May 19 SSO Work Group meeting** – The SSO workgroup convened to look at SSO pending regulations. For several months they’ve been developing a survey on wet weather practices. They’ve also put together an extensive survey on wet weather practices, blending, and capacity issues to put together a database that could be utilized to work with EPA to determine how things are done and the impact on modifying SSO regulations when they get promulgated in draft form. The results will be available at the

next meeting in Portland. There is a need for site-specific capacity calculations. This effort will try to calculate peak flows. They also discussed links between actual SSOs and public health by some epidemiological effort. Trying to get data analyzed before the conference in July. EPA is to prepare and deliver a report to Congress on the public health impact of CSOs and SSOs. A consulting group was hired to put together this report. Dave Williams will represent AMSA in this effort.

7. **Enforcement**

- **Mandatory Minimum Penalty Reform** – The amended bill is in the package.

C. *Announcements*

8. **New State Water Quality Control Board Member** – Derrick Carleton is the new Executive Officer of the Central Valley Regional Board.

TRI-TAC MEETING LOCATION & SCHEDULE 2002

TRI-TAC MEETING DATE¹	LOCATION/HOTEL	AFTER TRI-TAC MEETINGS²
JANUARY 16, 2002 (WEDNESDAY)	HILTON ONTARIO AIRPORT 700 NORTH HAVEN AVENUE ONTARIO, CA 91764 909-980-0400	Land Committee Meeting 1:00-3:00
*FEBRUARY 14, 2002	HOLIDAY INN AIRPORT 500 Hegenberger Road Oakland, CA 94621 510-562-5311	
MARCH 14, 2002	SACRAMENTO INTERNATIONAL AIRPORT 6900 AIRPORT BOULEVARD SACRAMENTO, CA 95837 TELEPHONE (916) 874-0917	WATER COMMITTEE MEETING 1:00-3:00
*APRIL 11, 2002	SACRAMENTO INTERNATIONAL AIRPORT 6900 AIRPORT BOULEVARD SACRAMENTO, CA 95837 TELEPHONE (916) 874-0917	Water Committee Meeting 12:30-3:00 1. 303(d) List 2. Nutrients 3. SRF
MAY 9, 2002	HILTON ONTARIO AIRPORT 700 NORTH HAVEN AVENUE ONTARIO, CA 91764 909-980-0400	WATER COMMITTEE MEETING 1:00-3:00 1. STATE WATER RESOURCES CONTROL BOARD DRAFT 303(D) LIST
*JUNE 13, 2002	HOLIDAY INN AIRPORT 500 Hegenberger Road Oakland, CA 94621 510-562-5311	

TRI-TAC MEETING DATE ¹	LOCATION/HOTEL	AFTER TRI-TAC MEETINGS ²
JULY 11, 2002	HOLIDAY INN AIRPORT 500 Hegenberger Road Oakland, CA 94621 510-562-5311	
AUGUST 8, 2002	No MEETING	
*SEPTEMBER 12, 2002	SACRAMENTO INTERNATIONAL AIRPORT 6900 AIRPORT BOULEVARD SACRAMENTO, CA 95837 TELEPHONE (916) 874-0917	
OCTOBER 10, 2002	ONTARIO	
NOVEMBER 14, 2002	SACRAMENTO	
DECEMBER 12, 2002	OAKLAND	
<p>¹ IF YOU WOULD LIKE TO ADD AN AGENDA ITEM OR SCHEDULE A PRESENTATION FOR AN UPCOMING MEETING, PLEASE CONTACT ONE OF THE COMMITTEE CO-CHAIRS AT LEAST 14 DAYS BEFORE THE DESIGNATED MEETING DATE.</p> <p>² If you would like an “after Tri-TAC” meeting noted in the agenda package, please contact Dave Williams at least ten days before the designated meeting date.</p> <p>*The Air Committee will meet on this date.</p>		

Tri-TAC Roster

Name	Company	E-mail Address	Phone Number	Fax Number
Gregory Adams	Los Angeles County Sanitation Districts Air Quality Engineering 1955 Workman Mill Road Whittier, CA 90601-1400	gadams@lacsds.org	562-699-7411 x2113	562-692-9690
Rodney Andersen	City of Burbank 275 E. Olive Avenue Burbank, CA 91502	Randeren@ci.burbank.ca.us	818 238-3931	818 238-3918
Layne Baroldi	Orange County Sanitation District P.O. Box 8127 Fountain Valley, CA 92728-8127	lbaroldi@ocsd.com	714 593-7456	714 962-2591
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James Chen	Union Sanitary District 5072 Benson Road Union City, CA 94587	Jim_chen@unionsanitary.com	510 477-7561	510 477-7505
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Alex Coate	East Bay Municipal Utility District P.O. Box 24055, MS 704 Oakland, CA 94623-1055	acoate@ebmud.com	510 287-1663	510 287-1330

Name	Company	E-mail Address	Phone Number	Fax Number
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Lauren Fondahl	Environmental Protection Agency Clean Water Act Compliance Office (WTR-7) 75 Hawthorne Street San Francisco, CA 94105-3901	fondahl.lauren@EPA.gov	415 972-3514	415 947-3549
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Robert Geyer	City of Watsonville 320 Harvest Drive Watsonville, CA 95076	bgeyer@ci.watsonville.ca.us	831 728-6149	831 763-4060
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Tri-TAC Liaison Representation

BACWA	Dave Williams
CASA	Roberta Larson; Sharon Green
SCAP	Ray Miller; Don Rebeck

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AIR	LAND	WATER	
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Gregory Adams James H. Clark Joyce Clark Alex Coate Margaret Figeroid Preeti Ghuman Jacqueline Kepke Paul Pau John Schroeter Jennifer Smith Brian Whitaker	Anne Briggs Nancy Evan Don Gabb Diane Gilbert Lesley Lundgren Ed McCormick Mike Moore Don Rebeck Rueben Robles Mike Sullivan Kimberly Toepfer	Jim Bewley Phil Bobel Fred Burnett Michelle Buzbee James Chen Gail Chesler Joyce Clark Jim Colston Rod Cruze Stan Dean Nancy Evans Tad Foster Jackie Gambl Robert Ghirelli James Gratteau Sharon Green Tom Grovhoug Tom Hall Ben Horenstein Val Housel Jim Kelly Jacqueline Kepke Wendell Kido Roberta Larson Kris Lindstrom Rich Luthy Steve McDonald	Patricia McGovern Steve Medbery Traci Minamide Terrie Mitchell Mike Moore Arleen Navaret Margie Nellor Jack Nelson Monica Oakley Michele Plá Bob Reid John Schroeter Jennifer Smith Keith Smith Roxanne Stachon Herb Stone Warren Tellefson Dave Tompkins Melissa Thorme Jerry Troyan David Tucker (SJ) David L. Tucker Roger W. Turner Ray Von Dohren Larry Wasserman Penny Weiland Chuck Weir Dave Williams

**TRI-TAC AIR COMMITTEE
JULY 11, 2002 MEETING**

ISSUE SUMMARY

1. SCAQMD CLEAN FLEET INITIATIVE

SCAQMD has adopted regulations (see the SCAQMD web-site at http://www.aqmd.gov/news1/Fleet_Rule_Home.htm) that require a public fleet operator with 15 or more vehicles, when replacing or purchasing new vehicles, to purchase either a low-emitting gasoline or alternative-fueled vehicle. Under SCAQMD's clean fleet strategy, a total of eight separate rules have been adopted by the Governing Board:

- Rule 1191 (Clean On-Road Light and Medium-Duty Public Fleet Vehicles)
- Rule 1192 (Clean On-Road Transit Buses)
- Rule 1193 (Clean On-Road Residential and Commercial Refuse Collection Vehicles)
- Rule 1194 (Commercial Airport Ground Access)
- Rule 1195 (Clean On-Road School Buses)
- Rule 1196 (Clean On-Road Heavy-Duty Public Fleet Vehicles)
- Amended Rule 431.2 (Sulfur Content of Liquid Fuels)
- Rule 1186.1 (Alternative Fuel Street Sweepers)

Update: Rule 1191 became effective on July 1, 2001. Affected agencies in the South Coast Air Basin are now limited to purchasing rule compliant vehicles for any planned replacements or new additions to the light- and medium-duty portions of their fleets. Rule 1196 becomes effective on July 1, 2002.

Contact: Greg Adams, LACSD

2. WERF ODOR CONTROL TECHNOLOGIES ASSESSMENT

LACSD and CH2M HILL received a WERF Odor Assessment grant for a two-year research program. The primary purpose of this study is to provide a working definition of odors, determine POTWs odor sources, list known odor compounds of concern, provide odor assessment approaches, provide modeling techniques for odor emissions estimating and odor dispersion, and conduct field research on the more promising control technologies. The first year is primarily a literature search which will be used to develop a field research agenda for the second year studies. This study will also be looking at what has been successfully used at industrial and agricultural sites to control odors and whether there is any application to POTWs. Other technical areas to be addressed include all potential

POTW odor sources - collection system, processes, biosolids handling facilities and combustion sources; odor characterization; the public's perception of odors and complaint trigger levels; and measurement and analysis approaches. This study will be characterizing, assessing, and determining optimal control technologies for odors from collection system influent to final effluent discharges, including biosolids processes associated with each POTW wastewater treatment and collection system.

Update: The Phase I literature search has been completed and WERF has agreed to fund our highest priority research item in the Phase II portion of the project. This research will attempt to determine odor generation within anaerobic digestion biosolids process units and related storage, dewatering, and conveyance processes. Ideally, this research will determine methods that will minimize the production of odorous products.

Under Phase II, we have developed general field and laboratory testing protocols that will be converted to site-specific protocols for all facilities that take part in the project. This protocol may be available to others to use on their own to help compliment our research program. WERF issued a formal request to its members to join in this effort through their targeted collaborative research program, and to date, ten facilities are anticipated to be taking part in the program.

We have produced a Letter of Understanding with similar groups on the East Coast that are also doing studies regarding biosolids and odors research so that information and findings may be shared on a common platform.

A trial run of the general testing protocol and corresponding site-specific protocol has recently been completed at one of the facilities taking part in the project. Lessons learned from this experience will be incorporated into the site-specific protocols and testing of all facilities, which will take place this summer. A final product will be available by the end of 2002.

Contact: Jay Witherspoon, CH2M HILL; Greg Adams, LACSD

3. CARB ENHANCED VAPOR RECOVERY (EVR) REQUIREMENTS FOR MOTOR VEHICLE GASOLINE REFUELING

On March 23, 2000, the CARB adopted amendments to current regulations governing vapor recovery at gasoline refueling stations. These requirements are applicable to fuel dispensing facilities owned and/or operated by public agencies (see attachments in May 2000 agenda packet). There are a number of new requirements, which must be implemented over the next eight years. The new requirements have been categorized into six modules. The six modules are Phase I Vapor Recovery improvements, Phase II Vapor Recovery improvements, Onboard Refueling Vapor Recovery Compatibility, Liquid Retention and Spitting, Spillage and Dripless Nozzles, and finally, In-Station Diagnostics (ISD). CARB's staff report states that "this could result in significant costs" for existing stations. One of the most costly of the mandated retrofits, will be the installation of an computerized in-station diagnostics system which will monitor EVR systems and notify the operator of system failures and vapor leaks (and in some cases, shutdown the pump) such that remedial action can be taken. Facility's which have a throughput of less than 160,000 gallons per year are exempt from the ISD requirements (it is not known at this time whether that threshold is an actual historical throughput or a permitted throughput). Some of the requirements are not even technologically available today and will have to be developed. CARB is scheduled to review the program in 2002 to ensure that technology is advancing to enable implementation of the required EVR improvements. More detailed information can be obtained from the CARB's web-site at <http://www.arb.ca.gov/vapor/vapor.htm>.

Update: The ARB has released for public review, a draft technology review regarding control measures proposed as part of the EVR program. All of the control measures reviewed were determined to be technologically feasible except the dripless nozzle standard. The ARB has scheduled a workshop for June 18 at 10:00 a.m. in Sacramento to present and take comment on the technology assessment. The ARB is proposing to take these EVR amendments to their board in September 2002. The document is available at the ARB's web site listed above.

Contact: Daniel McGivney, EMWD

5. SCAQMD RULE 1113 ESSENTIAL PUBLIC SERVICE TECHNOLOGY ASSESSMENT

SCAQMD Rule 1113 provides for a higher interim VOC limit to essential public services to allow time for these agencies to test low-VOC coating performance. The Southern California Alliance of POTWs (SCAP) has formed a committee to evaluate the performance of low-VOC coatings suitable for wastewater environments. The SCAQMD has an Essential Public Service Coating

Technology Assessment Committee with the purpose of evaluating the test results of these coatings, and SCAP is represented on that committee.

Update: Field evaluations of the atmospheric and immersion coupons took place on March 26-28, 2002. Some failures of coating systems are being noted. Field testing will continue until December 2002.

Contact: Preeti Ghuman, LACSD

6. CARB DIESEL RISK REDUCTION PLAN

In September 2001, the CARB adopted a plan which would lead to the reduction of health risk associated with the combustion of diesel fuel in internal combustion engines. The plan lays the groundwork for a number of comprehensive measures to be developed over the next two years, which will reduce the particulate matter fraction of engine emissions. The measures developed will impact stationary engines, portable engines, and on-road and off-road mobile engines. The program will have significant impact on all water and sanitation agencies in the state. Retrofit control costs could be substantial. Additional information regarding this program can be obtained by visiting the CARB web-site at <http://www.arb.ca.gov/diesel/dieselrrp.htm>.

Update: On April 4, the ARB released for public review, draft air toxic control measures (ATCMs) for existing and new stationary diesel engines. These measures require the retrofit control of existing diesel engines to reduce toxic particulate matter emissions. The Tri-TAC air committee met with the ARB regarding these measures on June 3 and submitted comments and recommendations. ATCMs still under development include those for portable diesel engines and mobile (on- and off-road) engines.

Contact: Daniel McGivney, Eastern MWD

7. CALIFORNIA CLEAN AIR PLAN

The CARB is preparing a state-wide plan which will document all feasible emissions control measures which may be used in order for all air basins in the state to attain federal and state ambient air quality standards. The measures contained in the plan will cover stationary, area, and mobile source emissions for both criteria and toxic pollutants. These measures may have significant impact

upon the operations of water and sanitation agencies. For further information, visit the CARB website at <http://www.arb.ca.gov/planning/caplan/caplan.htm>.

Update: The ARB has released for public review the draft CAP. The CAP contains over 100 proposed control measures to be implemented over the next 15 years. Many of the measures will impact public water and sanitation agencies. The plan has now been pulled off the ARB's web site and appears to be in limbo at this time. Apparently, the plan received a lot of late opposition from the agricultural sector, which may have contributed to the plan being set aside for the time being. It is speculated that the plan will not resurface until after the gubernatorial elections.

Contact: Daniel McGivney, Eastern MWD

TRI-TAC LAND COMMITTEE
ISSUE SUMMARY
JULY 11, 2002

1. SWRCB BIOSOLIDS GENERAL ORDER (GO) & ENVIRONMENTAL IMPACT REPORT (EIR)

The Central & South Delta Water Agency filed a lawsuit regarding the Central Valley General Waste Discharge Requirements (WDR) for biosolids land application. The suit challenged the State Water Resources Control Board's (SWRCB) order that allowed grandfathering of land application projects under the WDR. The judge in the case accepted the proposal from the SWRCB for a statewide EIR, and approved a 3 year, 4 month time line for completion allowing sites permitted under the (WDR) to continue to operate. CASA approved a Memorandum of Understanding with the SWRCB and acts as the conduit of funds between contributing agencies and the SWRCB for the development of the EIR. Craig Lekven and Layne Baroldi were members of the SWRCB Technical Advisory Group (TAG) for this project.

The SWRCB and the TAG selected Jones and Stokes to prepare the EIR on the General Waste Discharge Requirements for the Discharge of Biosolids to Land for Use as a Soil Amendment in Agricultural, Silvicultural, Horticultural, and Land Reclamation Activities (GO), which was prepared by SWRCB staff. The draft EIR and draft GO were released to the public June 28, 1999. Public hearings were held on August 18th in Palmdale, August 17th in Bakersfield, and August 23rd in Sacramento. The 60-day comment period ended September 10, 1999.

Jones and Stokes completed the final EIR and prepared responses to comments on the Draft EIR. The SWRCB made minor revisions to the General Order to resolve comments. Public workshops were held on August 1 in Santa Clarita and August 3 in Sacramento. The SWRCB heard final testimony at their board meeting in Sacramento on August 17, 2000. The Board unanimously adopted the General Order and the Final EIR at this meeting. The Board did incorporate 27 changes from an Errata Sheet and several changes at the meeting before final adoption.

The most significant requirements in the adopted GO are:

- the prohibition that "The application of biosolids containing a moisture content of less than 50 percent,
- a restriction that biosolids less than 75% moisture shall not be land applied when surface wind speed is greater than 25 mph,
- if the ground water is less than 25 feet from the surface monitoring is required including Mo, As, Se,
- plant tissue testing for Mo, Cu, and Se,
- require that residual nitrogen be determined by annual soil testing at 18 inches deep.

The SWRCB incorporated the EIR mitigation measures, the changes contained in the Errata, and items added at the final hearing into the GO. The draft EIR, Final EIR, final GO (Water Quality Order No. 2000-10-DWQ) and Users Manual are available at www.swrcb.ca.gov/programs/biosolids/index.html.

Two lawsuits were filed over the EIR. One by the Central and South Delta Water Agency and one by Kern County. The State Attorney General provided the defense. The two lawsuits were combined and heard by Judge Ron Robie. CASA intervened in these lawsuits. Regional Boards are using the GO and the Lahontan and Central Valley Regional Boards have each issued one Notice of Applicability (NOA) using the GO.

The SWRCB GO and associated EIR lawsuit hearing was held in front of Judge Ronald B. Robie on July 20, 2001 in Sacramento. The draft conclusion by the Court was that the lawsuits were denied. The Court then took testimony on the draft ruling. Following the testimony, Judge Robie took the case under submissions. Judge Robie made his final ruling on August 10, 2001. The final conclusion by the Court was that the lawsuits were denied. One interesting finding is that "The Court finds that there is substantial evidence to support the validity of the findings reached by the EPA in its development of the federal regulations (Title 40, Part 503 of the Code of Federal Regulations)."

On October 5, 2001, Kern County filed an appeal to the Court Ruling. Subsequently the Central and South Delta Water Agencies also appealed. Action on the appeal is not expected for sometime. CASA has intervened on behalf of the SWRCB. No dates have been set for the appeal hearing yet. The briefs from Kern County and the Central and South Delta Water Agency were submitted on May 2, 2002. CASA's brief was due June 4, 2002.

Update: Dates have not been set for the appeal hearing yet.

The Central Valley Regional Water Quality Board continues to receive Notice of Intents (NOI) and is apparently now processing them.

*Contact: Layne Baroldi OCSD, Bobbie Larson CASA
Current as of: June, 2002*

2. RADIOACTIVITY

Survey - EPA and the Nuclear Regulatory Commission (NRC) conducted a survey of POTWs to obtain national estimates of the levels of radioactive materials in sludge and ash at POTWs, estimate the extent to which radioactive contamination comes from either NRC/Agreement State licensees or from naturally occurring radioactivity, and support possible rulemaking decisions by NRC and EPA. For the planned survey, NRC/EPA sent the questionnaires to some 600 POTWs associated with NRC licensees having the highest potential to discharge radioactive material to the sewer system. Using the information gathered, NRC and EPA was to identify approximately 300 POTWs for sampling. The NRC proposal states that POTW identities will be kept confidential.

In July 1998, the Office of Management and Budget cleared the joint NRC-EPA survey and has required the two agencies to establish a survey review committee. Two municipal representatives are on the committee: Kevin Aiello of Middlesex County Utility Authority and Tom Lenhart of Northeast Ohio Regional Sewer District. The committee will oversee and monitor the results of the survey.

Of the 366 that responded to the survey, at least 300 and possibly all of the responding POTWs have been selected for the sampling survey, this list will not be made public. Sampling kits were received by some California agencies, though the names are confidential. All of the sampling is complete. The data has been analyzed and the results will be available this coming summer. The preliminary results are that there are no surprises.

Dose Modeling Document– Dose modeling is to be conducted to develop dose-to-source factors that can be used to help interpret the results of analyses of sewage sludge samples for radioactive materials. The consultant hired by AMSA has completed the dose modeling report. POTWs should be able to use the report to determine the level of radioactivity found in their biosolids from the samples forward to the NRC

Guidance Document - AMSA has developed a draft guidance document to assist POTWs in addressing radioactivity potential in sewage sludge and ash.

Draft documents have been developed and issued for public comment dealing with aspects of all three activities. Final reports will be issued in all three areas, hopefully by early 2002. These documents, along with Subcommittee meeting minutes will continue to be posted on the ISCORS website under the postings for subcommittees at "<http://www.iscours.org/sewage.htm>".

Update: As of this date there is nothing new to report.

*Contact: Diane Gilbert City of LA
Current as of: June, 2002*

3. DIOXINS

Draft 40CFR503 Round 2 Regulations, for Dioxins were issued December 15, 1999. The dioxin requirement is 300 ppt TEQ. Similar to the metals contained in the 503 regulation, the proposed dioxin concentration is based on the results of a risk assessment. However, unlike metals, only a ceiling concentration is proposed. The current proposal is 300 nanograms toxic equivalent per dry kilogram. If the dioxin content is over this concentration (0.0003 mg TEQ/kg) the biosolids cannot be used beneficially. The comment period was extended to March 23, 2000. WEF and AMSA are handling comments. The proposed regulations require a minimum of annual testing for dioxins in

biosolids for the first five years. This testing costs between \$1,500 and \$2,500 per sample. The draft regulations allow for the test frequency to be extended to every five years if the sample results are below 30 ppt TEQ. The draft regulations include a new dioxin test method that requires that non-detect results be reported at a value of half the detection limit. Based on the current testing procedures this means that non-detects on all congeners would return a TEQ result of 15 to 20 ppt. This will affect the ability to obtain results less than 30 ppt.

The EPA released a study indicating that dioxins are very carcinogenic. This has resulted in a reevaluation of the draft requirements. Data on the EPA dioxin health risk assessment were posted on their web site on June 12, 2000.

The new regulations must be promulgated by December 15, 2001 to meet a court mandate. The reevaluation will not be completed until some time next year. This has EPA in a dilemma.

There is a lack of data concerning the concentrations of dioxin that will be reported with the new EPA test procedure. AMSA has conducted a dioxin testing program and survey. The data will be needed by each agency for land application when the new regulations are promulgated.

It is now thought that the dioxin reassessment being completed by EPA could lower the acceptable limit from 300 to as low as 8 TEQ. Such a change would affect the ability to land apply biosolids. A recently released report is critical of the reassessment.

AMSA dioxin results were forwarded to participating POTWs in July. AMSA collected 199 samples from 171 POTWs located in 31 states and found dioxin concentrations ranging between 7.1-256 ppt-TEQ. A single outlier concentration of 3,590 ppt-TEQ was also found. AMSA is working with this particular POTW to re-test their biosolids to confirm this number. The following table presents the results of the analysis with non-detects set to one half of the detection limits:

	Total	(ppt-TEQ) Dioxin & Furans	PCBs
Average	48.5	38.4	10.0
Median	21.67	15.15	5.70

AMSA has finalized the report concerning the study and it is posted on AMSA's website (www.amsa-cleanwater.org).

On November 30, AMSA and other the consent degree parties agreed to allow the U. S. EPA to extend the deadline for finalizing the proposed dioxin Part 503 rule from

December 15 to March 1, 2002. The extension would allow the U. S. EPA time to account for new information obtained from the ASMA survey results and on-going risk assessment.

On December 21, the U. S. EPA listed in the federal register a notice of its final determination that they will not impose numerical standards or management practices for dioxin and dioxin-like compounds in sewage sludge that is disposed of at a surface disposal site or incinerated in a sewage sludge incinerator. In the notice the U. S. EPA stated that the final action to amend the Part 503 regulations for sewage sludge that is applied to land would be published separately at a later date

On April 1, 2002, all parties to the lawsuit agreed to a significant deadline extension for EPA to finalize regulations for dioxins in land-applied biosolids. After extensive negotiations and two interim extensions of the December deadline, the Joint Stipulation filed with the court this week allows EPA to take public comment on the new data, and gives the Agency until October 17, 2003 to finalize the regulations.

Update: EPA published in the June 12, 2002 Federal Register a notice of data availability for the Round 2 Part 503 sewage sludge regulations. This document summarizes the new sewage sludge data and risk assessment for dioxin. Based on a revised risk assessment (probabilistic) for land application of sewage sludge, the Agency estimates that its highly exposed population to land-applied sewage sludge using the current cancer slope factor is very low, ranging from 2×10^{-5} to 1×10^{-6} . EPA had proposed a 300 ppt dioxin limit for land application of biosolids in 1999 and is inviting comment on whether setting such a limit would make no detectable difference in risk or if no further action or rulemaking should be taken. In addition, the Agency is inviting comment on whether a voluntary methodology should be used to identify, reduce, and eliminate sources of dioxin from entering wastewater facilities that contribute to occasional elevated levels of dioxin in sewage sludge.

Contact: Diane Gilbert City of Los Angeles
Current as of: June, 2002

4. CIWMB COMPOSTABLE ORGANIC MATERIAL REGULATIONS

New, draft regulations will make changes that require all composting facilities to have a full facility permit anytime there is any biosolids in the mixture. The question is what action to take next on this. The requirements do treat biosolids, manure, and every other product except green waste composting facilities the same. This was initially heard by the CIWMB on April 23, 2001.

The CIWMB chose not to do anything on these regulations at the April 23 2001 board Meeting. They plan to hold a number of meetings to get more stakeholders involved. This will be brought up again at the Boards June 19, 2001 meeting.

The CIWMB discussed the proposed composting regulations in their August 14-15 2001 meeting. The board decided to move forward with the proposed draft regulations and start the 45-day comment public period. The new draft regulations include biosolids, manure, and other municipal solid waste other than green waste in the same tier. This tier requires that any biosolids composted outside of the treatment facility would require a full solid waste facility permit. Biosolids composted at the treatment facility would require enforcement agency notification. Also research projects using biosolids would require only enforcement agency notification if 5000 or less yards are being composted.

Update: The CIWMB proposed final regulations in early 2002 that essentially treat biosolids like other organics. The only concern is that the proposed regulations include a new low concentration limit for selenium of 36 mg/kg. This should be increased to the current 503-regulation concentration limit of 100 mg/kg. Comments have been made on these regulations and the CIWMB is determining if the selenium limit will be changed.

*Contact: Diane Gilbert City of Los Angeles
Current as of: June, 2002*

5. SOUTH COAST AQMD PR 1133

The first draft of Proposed Rule 1133 require best available control technology of the PM10, VOCs, and ammonia for composting sludge drying beds and possibly storage areas. This would mean that all of these facilities would have to be enclosed and with off gas scrubbing.

The second version of the rule dropped sludge drying beds, but requires enclosure of everything at a composting facility. This proposed rule is of major concern to composters and the CIWMB, since it will significantly drive up the cost to compost, especially for green waste composters. The CIWMB met on October 24, 2001 at the SCAQMD to address PR 1133. Composters and POTWs provided comments at this meeting.

A PR1133 Working Group meeting was held on February 19, 2002. This meeting assessed various scenarios for co-composting technologies. SCAP is performing its own studies on biosolids composting in order to provide the SCAQMD with accurate emissions data for the rule development. SCAP's Air Committee is actively involved in the rule development. SCAQMD staff will consider emission reduction effectiveness,

costs, affordability, industry impact, public nuisance, health impacts, siting issues, and current industry plans to formulate a proposed rule recommendation.

Update: The AQMD recently held a workshop on PR1133. The AQMD broke this proposed rule into three basic phases. The first phase will regulate biosolids composting and it appears that they will require enclosure of the active composting and possibly full enclosure of curing and storage. The three phases are: 1. Chipping and grinding, 2. Green waste composting, and 3. Co-composting and biosolids composting. In addition, the AQMD is starting to look into regulating odor, noise, and vibration. The measurement of these associated parameters has been added to the SCAP study of composting emissions. In addition, the AQMD is also saying that they're looking at requiring negative pressure aerated static pile inside an enclosed facility. This would be regulating the techniques to meet their requirements.. It would make a lot of sense for the AQMD to hold off on the action until at least the SCAP studies are complete. Tri-TAC agencies are actively commenting and working through SCAP on this issue.

*Contact: Dan McGivney EMWD, Layne Baroldi OCSD
Current as of: June, 2002*

8. NATIONAL ACADEMY OF SCIENCE REVIEW OF 503 REGULATION

The U.S. EPA is sponsoring an NAS Study to review the 40 CFR Part 503 Regulation relating to the management of Class B Biosolids.

The NAS Study Scope includes:

- Review the risk-assessment methods and data used to establish concentration limits for chemical pollutants in sludge to determine whether they are the most appropriate approaches. The committee will also consider the NRC's previous (1996) review and determine whether that report's recommendations have been appropriately addressed. Issues to consider include: (a) how the relevant chemical pollutants were identified; (b) whether all relevant exposure pathways were identified; (c) whether exposure analyses, particularly from indirect exposures, are realistic; (d) whether the default assumptions used in the risk assessments are appropriate; and (e) whether the calculations used to set pollutant limits are appropriate.
- Review the current standards for pathogen elimination in sludge and their adequacy for protecting public health. The committee will consider: (a) whether all appropriate pathogens were considered in establishing the standards; (b) whether enough information on infectious dose and environmental persistence exists to support current control approaches for pathogens; (c) risks from exposure to pathogens found

in Class B sludge; and (d) new approaches for assessing risks to human health from pathogens in sludge.

- Explore whether approaches for conducting pathogens risk-assessment can be integrated with those for chemical risk-assessment. If appropriate, the committee will recommend approaches for integrating pathogen and chemical pollutant risk-assessments.

Susan Martel, is the National Academy of Sciences' liaison to the project. The Committee met on October 3 and 4, 2001 in Woods Hole, MA and began drafting the report.

The NAS has a working draft of the report in progress. The committee met on December 10-11 in Irvine, California to work on the draft. The meeting was closed to the public. The goal is to have the report ready for peer review shortly after the meeting. If the committee feels that an additional meeting is needed to complete the report, another meeting will be scheduled in January to complete the draft. It is anticipated that the report will undergo peer review in February. NAS expects to deliver the final report to EPA by the end of May 2002.

Update: EPA expects the report out in early July of 2002.

*Contact: Bob Gillette Carollo Engineers
Current as of: June, 2002*

9. CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES MERCURY REGULATIONS

The Department of Toxic Substances has prepared a Draft Mercury Report which shows that there is a significant problem with mercury in the environment especially in fish tissue. Though the majority of the mercury is from legacy pollution i.e. gold and mercury mining they believe that there is a need for new mercury regulations. They have proposed five options:

1. Regulate all mercury containing waste as hazardous.
2. Regulate all waste with intentionally added mercury as hazardous waste.
3. Regulate all mercury containing consumer products—at the time they are discarded—as hazardous.
4. Develop a non-hazardous waste regulatory threshold number.
5. Status quo.

The staff prefers option 1. A hearing was held on November 19, 2001 in Sacramento, additional meetings to follow in Los Angeles – December 12, 2001, Oakland – December

3, 2001 and Fresno January 9, 2002. The Land Committee has submitted a letter and comments in support of sound science and option 4.

Tri-TAC members have provided verbal and written comments at the Sacramento, Oakland, and Los Angeles DTSC Mercury regulation workshops. It appears that DTSC understands the concerns

Update: DTSC is preparing a Mercury proposal for the Hazardous Waste Management Program. They are writing regulations that they plan to notice around July. They are making changes from the recommendations in the staff report. The changes have not been announced. It appears that DTSC will regulate products which intentionally have added mercury, rather than waste products such as biosolids.

*Contact: Layne Baroldi OCSD, Margie Nellor LACSD
Current as of: June, 2002*

10. AB2356

This is proposed legislation dealing with pesticides in compost and specifically chlapirolid now. This law will help to regulate chlapirolid, study it, and determine what the problems are and what ought to be done to keep it and other pesticides from causing problems with compost. We encourage everyone to get copies of the bill, review it, and support the bill. It hasn't been moved to committee yet, but it is close to going to the appropriations committee for hearing and we need to support this bill.

Update: CASA provided comments in support of this bill and it appears to be moving through the Senate committees without opposition.

*Contacts: Layne Baroldi OCSD, Bobbi Larson CASA
Current as of: June, 2002*

11. LOCAL ORDINANCES

Kern County has developed a County Ordinance that will ban land application of all but exceptional quality biosolids by January 1, 2003. The Southern California Alliance of POTWs (SCAP) and several major POTWs in Southern California tried to work with Kern County to assist with development of the ordinance that addresses the need for local control and oversight of biosolids land application in a logical manner. This effort has been largely unsuccessful. The permanent ordinance is available on the Internet at <http://www.co.kern.ca.us/rma/rma.htm>. Controversial provisions include: \$8,000/year fee, \$3.37/ton road impact fee, soil sampling every 40 acres, dioxin concentrations must be below 10 ppb, no class B application after January 2003, 10 mph wind limit for

spreading, etc. Exceptional quality biosolids products are exempt from the provisions of the ordinance.

A draft negative declaration (County of Kern (R0027)) for the adoption of the Biosolids Ordinance began circulation on August 13, 1999. The Board of Supervisors met on October 5, 1999 and adopted the Negative Declaration. The Board adopted the ordinance on October 13, 1999 and it became effective on January 1, 2000. The ordinance has onerous requirements for soils background monitoring (which may include every 40 acres for dioxins, PCBs, phosphorus, potassium, etc). Some tests are annual, and some are once every three years.

The City of Los Angeles, LACSD, OCSD, CASA, SCAP, and Responsible Biosolids Management filed a lawsuit against the new Ordinance on November 8, 1999. On December 7, 1999, a motion was filed to transfer the case out of Kern County. The judge agreed to move the trial to Tulare County. The hearing date was originally scheduled for May 15, 2000.

Kern County has filed a lawsuit against the agencies applying biosolids in the county for failing to perform an adequate EIR before application began. Judge Paul Vortmann ruled that Kern County complied with CEQA requirements during the development of the ordinance. The judge also ruled that the agencies had complied with CEQA. The judge did not rule on the other aspects of the case related to the validity of the ordinance. A trial date is set for June 3, 2002 to hear the non-CEQA causes of action. There is concern that regulation of Class A biosolids may not be far behind. Generator representatives have recently met with the County staff who indicate that there are concerns with issues related to land application of Class A biosolids.

The draft summary judgment and motions was issued on May 22. Judge Vortmann provided a tentative ruling against all three of our causes of action. The case began to be heard on May 23 in Visalia. The following is a brief description of the causes of action and the court's tentative ruling. The entire tentative ruling is also attached:

1. The ordinance is invalid and unconstitutional because it violates the Commerce Clause: The tentative ruling said that the application of the ordinance to only unincorporated land reflects the constitutional limits on Kern County's police powers, and as such does not a discriminatory effect on interstate commerce. The tentative ruling also stated that Kern County's decision to allow only EQ biosolids to be land applied cannot run afoul of the commerce clause because this legislative policy choice is explicitly authorized by the federal Clean Water Act, Part 503, and state law. The Commerce Clause protects the interstate market, not particular firms, from burdensome regulations.
2. Ordinance is invalid and unenforceable because it conflicts with state and federal regulations "permitting" application of biosolids and because it is barred by the Equal

Protection and Due Process clauses of the U.S. and California Constitutions: The tentative ruling denied the claim that the ordinance is invalid and unenforceable because it conflicts with state and Federal regulations permitting application of biosolids. The court found that Federal and State law has not preempted this field. Federal and State law expressly authorize the local regulation of biosolids. The Federal Part 503 regulations set minimum standards for the use or disposal of biosolids. The Federal Clean Water Act states the determination of the manner of disposal or use of sludge is a local determination. Although there may be language in the cases cited about an outright ban is prohibited when regulated use is already permitted, the regulation being considered in those cases completely banned either firearms, fireworks, or electroshock. None of the cases cited on this issue pertained to the application of biosolids. Additionally, the ordinance herein does not completely ban the applications of biosolids, just Class B biosolids. Thus, the court does not find that the ordinance is in conflict with Federal and State law. The court finds that there was a rational basis to a legitimate state purpose. Kern referenced its health and safety concerns and the fact that a local road was having to be closed because of the damage caused by trucks hauling biosolids. A "study" determined the relationship of the damage to the road by the haulers of biosolids and the proposed fee to pay for the maintenance needed. Having found a rational basis for the ordinance, the court found that the ordinance did not violate the equal protection and due process clause.

3. The impact fees are invalid and unenforceable because it constitutes an illegal general and special tax, which required voter approval prior to adoption.: The third cause of action alleges the Biosolids Impact Fee provision of the Ordinance is invalid because it is a special tax, a general tax, an invalid assessment, improperly uses revenues for unrelated purposes, and violates the Equal Protection and Due Process Clauses of the state and federal constitution. The tentative ruling found that the impact fees are bona fide regulatory fees, i.e., the record needed only demonstrate a reasonable relationship between the fees to be charged and the estimated cost of the service or program to be provided.

Update: The trial was held on June 3, 2002. No oral testimony was taken and the administrative record was originally to be the basis of the decision. The judge then decided to allow a written brief, which is due July 15, 2002. Kern County will have until August 9, 2002 to respond to the brief.

Contact: Layne Baroldi OCSD
Current as of: June, 2002

Kings County has decided to implement local regulation of biosolids. *Kings County* has 23,000 acres permitted for biosolids land application. The *Kings County* Agricultural Commissioner initially proposed a form of agreement between his office and land appliers to allow local inspection and record keeping. *Kings County* only has two

permitted biosolids land application sites. Kings County circulated a draft ordinance among staff which allow land application of Class B biosolids. The Draft Ordinance did restrict biosolids application to sites in only a portion of the County and at least 2 miles away from schools and sensitive receptors. Kings Co. Agricultural Commissioner held a meeting with the Kings Co. Farm Bureau, County Counsel, Biosolids applicers, and water interests on September 26, 2000 to discuss the ordinance.

The ordinance was drastically changed so that it now bans Class B biosolids in February 2003. The current ordinance allows for the use of Class A EQ biosolids until February 2006 and then only Class A EQ Biosolids in the compost form will be allowed. This was essentially adopted pending completion of CEQA documentation.

A lawsuit was been filed against the ordinance, which was heard on November 16, 2001. An appeal by the Orange Co. Sanitation District for extended time on their permit was heard on Nov. 6, 2001, and in December.

There is discussion that the ordinance's definition of Class A EQ biosolids could be expanded from having compost being the only type of acceptable Class A EQ biosolids to include any of the initially adopted 503 Appendix B PFRP processes.

The lawsuit against the ordinance was heard, on November 16, 2001. The court found in favor of the County and the ordinance. The Orange Co. Sanitation District request for extended time on their permit was denied. The court decision on the adequacy of the CEQA compliance document was appealed.

Orange County filed an appeal on the Board of Supervisors decision to not extend their use of Class B biosolids land application. This appeal was denied.

Update: McCarthy Farms has submitted a request for a Class B permit extension which will be heard on July 15, 2002. Orange County filed a lawsuit on the ruling on their appeal on the Board decision to not extend their use of Class B biosolids land application. There is also a composting facility that is presently going through the CEQA process. On a related matter, there are hearings on the dairy elements of programmatic EIR where pathogen issues could be related biosolids.

*Contact: Layne Baroldi OCSD
Current as of: June, 2002*

In *Riverside County*, there are two basic issues the Synagro composting facility and the County ordinance.

Synagro Compost Facility - The Board of Supervisors told the Synagro composting facility in Corona to reduce the amount of biosolids it composts from 500 to 250 tons per day. This was due to complaints from local citizens about odors. Synagro went to court and was granted a temporary injunction to be able to continue to process 500 tons per day. Some of the agencies using this facility are looking into alternatives. This raises the question as to whether biosolids should be sent to a facility that has complaints against it and how to stop operators who are giving biosolids a bad name.

37 individual homeowners adjacent to the Synagro facility filed suit in small claims court claiming it is a nuisance. The judge ruled in favor of 21 individual home owners adjacent to the Synagro that filed suit, but not those who are only occupants. Synagro is deciding if they want to appeal.

The Synagro facility is working to reduce complaints and continue as the only biosolids composting facility in Riverside County. A recent Grand Jury Report said the site was essential to the management of residuals, but a June Citizens Advisory Group Meeting made the recommendation that the site needs to be moved because of public health and nuisance concerns. The County Board of Supervisors was critical of the Grand Jury's findings. Synagro is exploring ways to reduce or eliminate the odors, but all options are expensive and they are seeking ways to fund the needed improvements. Synagro is also reluctant to make the improvements if the County does not commit to long term use of the site.

The RWQCB has required that a storm water retention basin on the site be lined. The County is requiring that a permit be issued for the construction, but is refusing to issue a permit. This has lead Synagro to file another lawsuit against the County.

Synagro began preparing a design for modifications to their facility including enclosure of at least the basic composting facilities. They are looking for financial support for the needed improvements in exchange for capacity rights. At a public hearing on June 19, 2001 options to enclose the facility, limit the capacity and resolve the pending lawsuits were discussed. On June 26th the Riverside County Board of Supervisors offered to settle the litigation.

On a 5:0 vote the Board of Supervisors voted to work with Synagro to move the composting facility to a landfill site in Lambs Canyon.

On a 3:2 vote the Board of Supervisors voted December 11, 2001 to tentatively approve the concept of a composting facility at a landfill site in Lambs Canyon. The processes of the composting facility that will be covered is being determined.

Update: The facility, which would be a great help to Southern California municipalities, is going to have to be created by a JPA led by Eastern

MWD. The Riverside County Board of Supervisors has refused to allow such a compost facility to be developed by Synagro as the lead. The proposal calls for composting up to 800 ton per day of biosolids.

County Ordinance - In response to complaints and local demonstrations during biosolids land application at some sites, Riverside County is considering a revision of their ordinance that could possibly ban Class B biosolids. Regulators, generators, and applicators are meeting to address and resolve issues.

On March 20, 2001, after almost three hours of testimony, the Riverside County Board of Supervisors (Board) postponed their vote on two biosolids related agenda items; the approval of the Riverside County Health Services Agency's report on the "Health Effects Related to the use of Pesticides and Sewage Sludge" (Report), and the proposed prohibition of land application of biosolids on County owned land. The Report affirmed that the existing regulations provided adequate health and safety measures to protect the citizens of Riverside County finding that "[t]he minimal risk of disease transmission or causation makes the adoption of any additional mitigation, up to and including a full ban, a policy decision based on the quality of life issues as opposed to a Public Health necessity." The Report also determined that the quality of life issues "apply equally to the similar uses of manure." Subsequent to the Report, Riverside County staff concluded that virtually all complaints attributed to biosolids were the result of manure use.

The Board instructed staff to form a "Blue Ribbon Committee" to address the issues surrounding the land application of biosolids. The Committee will be limited to eight individuals, formed by the Board, from a pool of representatives of the Riverside County Farm Bureau, scientist from the University of California at Riverside, Riverside County regulators, concerned citizens and the biosolids industry. It is anticipated that the committee will provide a report to the Board within sixty days of its formation.

The "Blue Ribbon Committee" was to look at two issues: 1) a ban on land application of biosolids on publicly owned land and 2) a review of the Health Department Report. A preliminary report was due out of the group by June 5 2001 with the final due June 15, 2001.

A draft ordinance banning land application of Class B biosolids was made available October 24, 2001. Staff implemented a policy requiring half-mile setback of application of Class B material from all buildings. This effectively implemented a ban on all but 600 acres in the County. The final ordinance banning land application of Class B biosolids has been enacted. Land application in the County has ceased except for some in-County Class A solar dried biosolids. The Ordinance banning Class B biosolids land application was adopted in November 2001.

Riverside County is in the process of developing a Class A biosolids ordinance which

will probably include buffer zones. The County would like to do is distinguish between Class A biosolids that is objectionable to neighbors and Class A biosolids that is not objectionable.

Update: A draft ordinance regulating Class A has been drafted and is being reviewed. The Board of Supervisors is not actively pushing the implementation of a Class A ordinance at this time.

Contact: Anne Briggs EMWD, Layne Baroldi OCSD
Current as of: May, 2002

The *San Luis Obispo County* Board of Supervisors has instituted a six months process to develop an ordinance for land application of biosolids. The Board has established a committee made up of 27 individuals including County Staff, Cal Poly Academicians, farmers, business leaders, and several from a group in opposition to biosolids land application. They have hired several consultants to work with them in the preparation of this ordinance.

The County Department of Environmental Health is charged with putting out regulations of land application of biosolids. They have put together a panel that is very divided and covers the range from anti biosolids activists to land appliers. All of these will have a vote. They have recently brought in a new facilitator, John Wallace. It appears that as a minimum the final ordinance will be more restrictive then the 503 regulations and the Statewide General Order.

The Task Force has completed their work, and the facilitator has prepared draft recommendations for submission. The draft recommendations were voted approval at a September 19, 2001 meeting. The recommendations have been given to the Environmental Health Department for presentation to the Board of Supervisors and development of an Ordinance. The recommendation should be going before the Board of Supervisors in December.

The recommendations will allow biosolids land application with some restrictions beyond the current requirements. The recommendations should allow reuse of all of the biosolids generated within the County on existing sites until a formal ordinance is prepared and adopted. The recommendations were be presented to the Board of Supervisors on March 12, 2002.

Update: The Board and Staff are still determining what actions to take

Contact: Bob Gillette Carollo, Diane Gilbert City of LA
Current as of: June, 2002

LAND COMMITTEE
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Solano County, A local anti-biosolids activist has requested that the current County Ordinance be revised to prohibit land application of Class B biosolids. The Board of Supervisors requested that this be brought back to them in August with staff recommendations.

Update: This is a new item.

Contact: Ed McCormick EBMUD, Bob Gillette Carollo
Current as of: June, 2002

**Tri-TAC WATER COMMITTEE
JULY 11, 2002 MEETING**

ISSUE SUMMARY

1. 303(d) LIST/TOTAL DAILY MAXIMUM LOAD (TMDL) ISSUES

Background: Under Section 303(d) of the Clean Water Act and associated USEPA regulations, States are required to list water bodies for which water quality standards will not be met after application of technology-based controls, establish priorities for action among the listed water bodies, establish total maximum daily loads (TMDLs) that each listed water body can receive to meet water quality standards, and determine reductions in pollutant loads from point and non point sources to achieve the TMDL. The next 303(d) list is required to be submitted by April, 2002. Under the new regulations (which are expected to go into effect by that time) the 303(d) lists will be prepared every 4 years.

EPA's TMDL Regulations: EPA issued draft regulations pertaining to 303(d) listing and TMDL development in August 1999. Numerous changes to the existing TMDL program have been proposed in the draft regulations. Comments on the draft EPA regulations were made in January 2000. EPA received an enormous volume of comments on the proposed regulations. A number of congressional hearings have been held to hear testimony on this topic. EPA issued the final regulations on July 13th, 2000 and a 60-day Congressional Review period went into effect after the regulations were issued. The regulations have a delayed effective date of April 30, 2003. In 2001, EPA held numerous listening sessions throughout the Country to get input on potential revisions to the adopted regulations. Draft regulations are expected to be released sometime in 2002 for review. With regard to listing, in November 2001, EPA released its *2002 Integrated Water Quality Monitoring & Assessment Report Guidance* ("integrated report guidance") that for the first time integrates state development and submission of the Clean Water Act's 305(b) water quality reports and 303(d) lists of impaired waters. The release of the integrated report guidance was one of several reasons EPA listed for extending the deadline for the next state 303(d) lists until October 1, 2002.

California's 1998 303(d) List: The SWRCB adopted the statewide 1998 303(d) list on May 27, 1998. EPA took final action on California's 1998 303(d) list in May 1999, adding 37 water bodies and 12 pollutants for other water bodies, including dioxin for San Francisco Bay.

California 303(d)/TMDL Lawsuits: In December 1997, the Natural Resources Defense Council (NRDC) and two other environmental groups sent a Notice of Intent to Sue the EPA over the failure of the Los Angeles RWQCB to adequately implement the 303(d) and (e) program. As a result of a settlement agreement between the parties, EPA adopted a consent decree establishing a schedule for completion of TMDLs in Region 4.

In northern California, the San Francisco Baykeeper filed a similar Notice of Intent to Sue with EPA Region 9 in October 1998 for the San Francisco and Central Valley Regions. On January 12, 2000, the San Francisco Baykeeper, San Diego Baykeeper and CalPIRG filed a lawsuit against EPA alleging failure to properly implement the TMDL and NPDES permit programs in California. CASA filed a similar suit against EPA regarding a failure to properly implement Section 303(d), 305(b) and other sections of the Clean Water Act. The Cases have been consolidated by the Court, which denied the BayKeeper's Motion for Summary Judgment to establish TMDL schedules for all waters in California that are not already subject to consent decrees. BayKeeper has appealed the decision.. CASA's remaining claims are scheduled to be briefed this Fall.

In June 1998, Sacramento Regional County Sanitation District (SRCSD) filed a lawsuit against the SWRCB and Central Valley and San Francisco RWQCBs, alleging that the 1998 303(d) list is invalid due to the states failure to comply with provisions of the Clean Water Act, the Porter-Cologne Act, the Administrative Procedures Act, and the California Environmental Quality Act. CASA and SCAP joined as plaintiffs in this lawsuit; NRDC intervened on behalf of the State. A hearing for summary adjudication on two issues emerging from the CASA/Sacramento lawsuit against the SWRCB over the 1998 303(d) list was held in Sacramento Superior Court in November 1999. The court ruled in favor of the State on both issues. The remaining issues were heard by the court in August 2000, and the court ruled in favor of the State on all issues. CASA, SCAP and Sacramento have appealed, and filed their opening briefs with the Court of Appeal.

The Farm Bureau filed a federal lawsuit seeking to have a TMDL for the Garcia River (north coast of California) overturned, based on the Administrative Procedures Act. This lawsuit questioned whether non-point sources fall under the 303(d) and TMDL regulations. AMSA intervened in the lawsuit in support of EPA's authority to address non-point sources under the TMDL program. Forestry associations also intervened, in support of the Farm Bureau. A federal court found in favor of EPA in March 2000. The Farm Bureau's appeal in the 9th Circuit Court of Appeals is proceeding.

TMDL Legislation: State legislation (AB 982) was enacted requiring the formation of an advisory group to evaluate the California TMDL program. A Public Advisory Group (PAG) has been established under this authority. Bobbi Larson of CASA and Vicki Conway of LACSD are the POTW member and alternate, respectively. The group is has developed consensus recommendations regarding a statewide ambient monitoring program and is finalizing its report on other elements of a TMDL program for California. The PAG submitted its report evaluating the State's program to the Legislature in February 2001. The PAG is continuing to meet, including subgroups who are offering recommendations to the SWRCB on the listing process.

CASA is working to develop proposed language for a federal Clean Water Act amendment to address TMDL issues.

TMDL Guidance in California: EPA Region IX released a public draft of TMDL guidance for California. Tri-TAC provided formal comments on the draft TMDL guidance document in a letter dated November 30, 1999. The guidance reflects EPA's legal view of minimum federal requirements for TMDLs and fails to require or endorse positions advocated by Tri-TAC and CASA.

TMDL-related Permit Issues: New NPDES permitting procedures emerged in the San Francisco Bay region for pollutants contained on the 1998 303(d) list. EPA Region IX indicated that it would object to permits issued by the Regional Board that did not contain the following elements: (1) no dilution allowance for 303(d)-listed pollutants in performing reasonable potential analyses or setting final effluent limits; (2) mass limits for bioaccumulative 303(d)-listed pollutants based on current performance; and (3) final mass limits of zero ("no net loading") for bioaccumulative pollutants. These requirements are similar in many respects to positions advocated by the San Francisco Baykeeper in numerous appeals filed on Bay area permits. In February and March, 2000 two Tosco refinery NPDES permits were adopted with these provisions in place. Each of these permits was appealed.

The San Francisco Regional Board has included in many subsequently issued NPDES permits for POTWs provisions similar to those contained in the Tosco permit. The Central Valley Regional Board placed similar requirements in Sacramento Regional's permit, and draft permits prepared by the LA Regional Board have proposed even more onerous requirements. It is hoped that these provisions will be removed upon remand or permit modification.

USEPA Region IX issued draft permit guidance dated April 20, 2000, which sought to codify the above-described permitting approach for California for 303(d)-listed pollutants prior to the adoption of TMDLs. Tri-TAC submitted comments on the draft guidance. Western State Petroleum Association (WSPA) filed a federal lawsuit challenging EPA's draft guidance document for NPDES permitting procedures prior to adoption of a TMDL. In addition, both Congress, Chuck Fox, the former Assistant Administrator for Water, directed EPA regions not to implement regional guidance in advance of a national policy/guidance on interim permitting, but Region IX has ignored these directives. At that time, EPA indicated it intended to issue national guidance on this topic, but this effort wanted in 2001. However, in the Spring of 2002, EPA intends to issue guidance on development of ambient mercury criteria, which will include a section devoted to interim permitting.

The SWRCB conducted a two-day evidentiary hearing on the challenged "Tosco" permits in September 2000. On March 7, 2001, the SWRCB issued its decision in the appeals of the Tosco permits. The decision addressed the interim permitting issues in a way generally favorable to the regulated community's positions. The findings included:

- The no-net loading and criterion end-of-pipe limits in the findings of the permits are inappropriate; instead, the permit findings should simply state that the final WQBEL will be based on the TMDL.
- 303(d) listing alone is not a sufficient basis to conclude that a water body lacks assimilative capacity
- The arguments related to allowing dilution in the reasonable potential analysis have been mooted by the adoption of the SIP;
- Interim, performance-based mass limits for refineries are appropriate, but should be calculated using different statistical methods that account for historic variability in the effluent.
- The decision left open the question of whether interim performance-based mass limits are appropriate for POTWs, as that issue was not specifically before the SWRCB in the appeal of these industrial permits. However, in the subsequent Napa Sanitation District appeal decided Dec. 5, 2002, the SWRCB held that interim performance-based mass limits are appropriate for POTWs. That decision has been appealed to Superior Court.

Update:

The RWQCBs were directed by the SWRCB to submit their draft 2002 303(d) lists to the SWRCB by the end of October, 2001. The RWQCBs submitted their lists as compiled by the staffs of each of the RWQCBs without formal action by the individual boards. The SWRCB is expected to put the final list out in early 2002 for public comment, and make an October 1, 2002 deadline for submission to EPA.

WSPA dismissed its lawsuit on the interim permitting guidance after the Tosco decision and EPA's subsequent "repeal" of its guidance.

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Current as of: March 6, 2002.*

2. CALIFORNIA TOXICS RULE (CTR) / PROPOSED STATE IMPLEMENTATION POLICY (SIP)

The State Water Resources Control Board (SWRCB) was required to adopt water quality objectives for priority pollutants under the Clean Water Act, Section 303(c)(2)(B). SWRCB originally adopted the Inland Surface Water Plan/Enclosed Bays and Estuary Plan (ISWP/EBEP) in 1991, but both plans were rescinded in 1994 in response to a court order. As a result, USEPA began efforts to promulgate the California Toxics Rule (CTR), which was published a draft in the Federal Register on August 5, 1997. The draft CTR included proposed numeric water quality standards for those EPA priority pollutants, which were not covered by the 1992 National Toxics Rule. An economic assessment of the effect of the proposed standards (primarily looking at point sources) was also developed.

EPA conducted a formal consultation process with the U.S. Fish & Wildlife Service and the National Marine Fisheries Service to resolve issues regarding the draft CTR for several years. This protracted process was the result of a finding by the Services that the CTR standards would be likely to jeopardize the continued existence of numerous endangered and threatened species found in California.

In conjunction with the CTR, the SWRCB released a draft Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bay, and Estuaries of California (State Implementation Policy, or SIP) and functional equivalent document (FED) for public comment during Fall 1997.

SWRCB issued a Second Draft SIP and FED in November 1999 for public review. The SWRCB prepared a revised economic analysis for the Second Draft SIP. SWRCB issued a Third draft of the SIP in January 2000. A fourth draft of the SIP was provided to attendees of a March 2, 2000 Board meeting, at which time the SWRCB adopted a Revised Version of the fourth draft, which became effective upon USEPA promulgation of the CTR in May 2000 (*Federal Register*, May 18, 2000). NPDES permits now must be written to incorporate the provisions of the SIP and CTR.

When the SIP was adopted, dischargers raised concerns about their inability to find laboratories that could perform analyses that met all of the minimum levels (MLs) adopted in the SIP. The SWRCB conducted a survey of laboratories in October 2000 to gather additional information about this issue. This is also a concern for the California Ocean Plan amendments adopted by the SWRCB in November 2000.

Environmental groups filed a lawsuit against the SWRCB in May 2000 challenging the SIP. CASA and the Western States Petroleum Association both joined the suit as intervenors on the side of the State Board. The judge ruled in favor of the SWRCB, CASA and WSPA on all claims. The environmental groups have appealed.

In early May of 2000, EPA issued its letter conditionally approving the SIP. EPA approved most provisions of the SIP, subject to its understanding of the proper interpretation, but withheld action on the compliance schedule provisions which allow up to 15 years for a TMDL to be developed and 5 years for compliance with the wasteload allocations derived from the TMDL (for a total of up to 20 years). In light of EPA's action, the status of these compliance schedule provisions is unclear.

State Board staff began work on Phase II of the SIP, which will include policy provisions relating to effluent dependent waters (EDWs), as well as the development of technical guidance regarding site-specific objectives and mixing zone delineation. Two public meetings were held regarding

EDWs on February 28, 2001 in Los Angeles and March 14, 2001 in Sacramento. Additional information about Phase II efforts can be obtained from Chris Bailey, SWRCB Freshwater Standards Unit, 916/341-5571.

Update: None

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Current as of: March 6, 2002*

3. **ENFORCEMENT ISSUES – Mandatory Minimum Penalties**

SB709: SB 709, which established discretionary pollution prevention programs and mandatory minimum penalties for NPDES violations, became effective as law on January 1, 2000. SWRCB issued guidance on SB 709 implementation in December 1999.

Tri-TAC sent a letter to the SWRCB regarding chlorine residual limit compliance determinations and reporting. SWRCB has responded to say they are considering this issue. In the Bay Area, Regional Board staff has indicated a willingness to consider additional monitoring information (e.g. sulfur dioxide or bisulfite monitoring) in defining chlorine violations.

SB 2165: The follow-up legislation, SB 2165 (Sher) was chaptered on September 28th, 2000. This bill modified the original law by allowing for some relief for dischargers issued Time Schedule Orders. The SWRCB issued an updated Question and Answer memorandum for the implementation of Minimum Mandatory Penalties in 2001. The document is located on the SWRCB website at http://www.swrcb.ca.gov/water_laws/index.html.

In October 2000, the SWRCB issued a draft enforcement policy. Tri-TAC and CASA submitted extensive comments and testified a hearing in early 2001. In October 2001, the policy was re-released with extensive revisions, many of which incorporated Tri-TAC and CASA's recommendations. The document was revised again in December 2001, in advance of a hearing held in January 2002. Tri-TAC and CASA submitted comments again, including specific wording changes for the remaining issues of concern.

Update:

The SWRCB adopted amendments to the Enforcement policy on February 19, 2002. The final version can be viewed at <http://www.swrcb.ca.gov/plnspols/index.html#waternews>. It incorporated essentially all of the Tri-TAC and CASA recommendations. A summary of the key provisions can be found on the Tri-TAC website.

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4. **OFFSETS/POLLUTANT TRADING**

The concept of pollutant offsets and/or pollutant trading has re-emerged in numerous forums as a by-product of the 303(d) and TMDL process. Pollutant offsets are being discussed as one of several options that dischargers may have to comply with restrictive wasteload allocations resulting from TMDLs. A major issue is whether pollutant offsets will be voluntary or required. In its proposed NPDES regulations to address permitting while TMDLs are being developed,

USEPA proposed a mandatory offset program. Some NPDES permits in the San Francisco Bay area still include a finding that suggests that “no net loading” is a feasible wasteload allocation decision for specific pollutants. The concept of “no net loading” presumes that existing and future loadings from a discharger to a 303(d)-listed water body would be offset by reductions in other sources of the pollutant in question. For practical purposes, this is being viewed as a mandatory offset approach for many dischargers. A draft mercury TMDL wasteload allocation document prepared by Regional Board staff includes a discussion of a pollutant offset program that may be considered for the San Francisco Bay area.

Tri-TAC formed a workgroup to produce a position paper on pollutant offsets. The work group started with the 1996 Tri-TAC pollutant trading document and modified it to address current issues and approaches. Workgroup meetings have been held and drafts produced for comment. The current draft of the offset position paper is dated September 11, 2000.

Based on the actions of some regional boards to place offset requirements in discharge permits, the Tri-TAC Water Committee addressed this issue to the SWRCB at its presentation to the Board on October 4. Terry Oda, from EPA Region IX, has asked members from POPS to discuss the development of an offset program with EPA and the USGS. No meeting dates have been set yet.

At this time, the SWRCB is not planning to adopt an Effluent Trading Program; however, the Office of Chief Counsel drafted guidelines for trading. Tri-TAC will work from our set of principles in hopes of helping the state to develop reasonable guidelines for effluent trading in California. These guidelines could then be used for the voluntary development of site specific trading plans to approach specific problems. Meanwhile, EPA is developing a water quality trading policy that may be modeled after regulations being developed in Michigan. Tri-TAC provided input to AMSA on key issues that should be addressed in the policy. It is expected that that EPA policy will be released in the summer of 2002.

Update: The SWRCB Office of Chief Counsel has published a memorandum detailing the circumstances under which effluent trading could occur. In general, the memorandum supports trading mechanisms within the context of the Clean Water Act and the Porter-Cologne Water Quality Act. Tri-TAC is preparing a letter to the SWRCB in response to the memorandum commenting on the positions of the Chief Counsel and in support of pilot trading programs. The EPA has also released a draft trading proposal which will be discussed and commented on by a subcommittee.

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Current as of: March 29, 2002*

5. CALIFORNIA OCEAN PLAN AMENDMENTS/FUNCTIONAL EQUIVALENT DOCUMENT

The Draft California Ocean Plan Amendments were issued for public comment during early September, 2000. Issues included the adoption of an Acute Toxicity Objective to replace the current acute toxicity technology based standard; new water quality objectives, new compliance determination using minimum levels; formatting and administrative changes; and new uses and proposed use nomination process for ASBS, OSRW and ONRW. Tri-TAC submitted comments jointly with SCAP and CASA in September and October 2000 .

Tri-TAC members attended the adoption hearing which occurred on November 16, 2000. All draft amendments to the COP were adopted except those related to the development and

nomination of OSRW and ONRW. Tri-TAC, in conjunction with other interested dischargers, submitted detailed comments related to the development and nomination of OSRW and ONRW. This issue was held over for further consideration at a January, 2001 hearing, which was later extended indefinitely. The final COP did include replacing the former freshwater acute toxicity test with an updated marine acute test that uses a mixing zone.

Update: The amended COP was adopted by the SWRCB and approved by OAL. In December 2002, the EPA issued final approval of the plan. The amended plan is available at <http://www.swrcb.ca.gov/plnspols/oplans/op2001.pdf>.

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Current as of March 6, 2002*

6. PERMIT ISSUES

A. Appeals

The majority of recently issued POTW permits throughout the State have been appealed, challenging, among other things, the regional boards' use of narrative water quality objectives to impose stringent effluent limitations.

The City of Los Angeles/ Burbank appeals yielded a favorable initial ruling from a Los Angeles Superior Court judge, who determined that the regional board failed to consider economics, potential environmental impacts and other public interest factors when adopting the permits, as required by the Porter-Cologne Water Quality Control Act and Clean Water Act. The judge also found that the regional board failed to "bridge the analytical gap" between narrative standards and numeric limits, and failed to state how it intended to translate narrative water quality objectives into numeric permit limits, as required by federal regulations (40 CFR 131.11(a)(2).)

The Attorney General (AG), representing the SWRCB and LARWQCB, appealed of the LA/Burbank decisions. The cities has simultaneously filed an appeal of the judge's denial of attorney's fees. Hearings are expected late 2002. The AG did not appeal all of the issues decided in the case. Issues not appealed included the overruling of daily max permit limits for POTWs, the invalidation of language prescribing particular manner of compliance, and the determination that the regional board failed to "bridge the analytical gap" between narrative standards and numeric limits. These unappealed items are now "law of the case" and will apply to the reissued LA and Burbank permits (and arguably any other similar permits issued by the Regional Board (and State Board?) as they are parties bound by the decision. How this decision will be used by the state when issuing new permits remains to be seen.

Similar issues regarding the use of narrative criteria were at issue in a lawsuit filed by the University of California, Davis, challenging a permit issued by the Central Valley Regional Water Quality Control Board. The judge in that case upheld the permits, reaching a conclusion opposite to that in the LA/Burbank case. The judge ruled that the use of federal advisory [304(a)] criteria was "within the [regional board's] discretion," and that the permit was "an application of the narrative toxicity objective, not an interpretation of it."

The City of Turlock has filed a petition for writ of mandate with the Stanislaus County Superior Court and received a temporary stay and order to show cause why the stay should be lifted. The case and the judicial stay were dismissed because the State Board acted to

independently stay the permit pending decisions in other similar cases (e.g., Napa and Vacaville).

After receiving a dismissal of its stay request by the SWRCB, the Napa Sanitation District filed a petition for writ of mandate with the Napa County Superior Court along with a Motion for Stay of portions of the permit. The case was subsequently transferred to Solano Superior Court and the Bay Area Clean Water Agencies have been added as a Petitioner. An administrative stay from the SWRCB and a supplemental judicial stay are in place until the writ appealing the permit and the SWRCB's order on the permit is decided.

The SWRCB heard the City of Vacaville's Permit appeal on September 11-13th. CASA/SCAP/Tri-TAC were consolidated as one party in this evidentiary hearing. Other parties include the City of Turlock, LACSD, DeltaKeeper, and Heal the Bay/Southern California Keepers.

Update:

The Vacaville Permit Appeal continued with a site visit for State Board staff and Member Pete Silva. A draft decision is not expected until mid-2002.

Southern California dischargers sued EPA over approval/disapproval of the 1994 Basin Plan for Los Angeles. The favorable decision and subsequent re-issued EPA approval letter ruled the condition MUN use designation had no legal effect. Thus, permits in the LA region no longer require MUN-based effluent limitations. The decision and letter also reviewed the narrative standards for toxic pollutants. EPA upheld the PCB narrative, but disapproved the bioaccumulation narrative due to the lack of a translator required by 40 C.F.R. §131.11(a)(2). EPA also stated that the narrative toxicity standard was approved.

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