THE CITY OF
BRENTWOOD
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September 16, 2016

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

Re: Comment Letter – ELAP Regulations Development/Laboratory Standard

Dear Ms. Townsend and State Water Resources Control Board Members:

On September 6, 2016, the State Board gave notice that they would be holding a Workshop on proposed changes to the environmental laboratory accreditation regulations. The deadline for the submittal of comments is noon on Friday, September 16, 2016, which is nine and one half working days from initial notice. The focus of the proposed changes is the Environmental Laboratory Accreditation Program's (ELAP) proposal to use Volume 1 of The NELAC Institute's (TNI) 2016 documents as the basis for laboratory accreditation. The City of Brentwood would like the Board to consider the following items in their discussion on the topic:

Benefits of In-House Lab:

Having in-house laboratories maximizes our ability to protect the public health, safety and welfare. When an in-house analyst sees a result that is non-conforming, they know it immediately as they are familiar with the nuances of their local treatment plant. Additional testing or samples can be immediately collected and tested versus the additional steps seen in a commercial lab of letting a lead analyst know, who lets the QA officer know, who tells the Project Manager, who then starts calling the agency. If anyone fails to answer or is otherwise unavailable in this linear chain of communication, then the whole notification process of the commercial lab to an agency is delayed. This unnecessarily prolonged delay has the potential to cause harm to the public health, safety and welfare, and also increases liability to the agency. This would be significant if it is a positive total coliform or, even worse, an *E. coli* positive sample for drinking water was obtained. In an in-house lab, those results can be given directly to the Manager of the Water Division within minutes versus up to 24 hours that the law allows for a commercial lab to give notification to an agency.

California has more accredited environmental laboratories than any other state. This is a huge and important resource for the people of California for the protection of human health and the environment, which should be encouraged to grow. Laboratories accredited by ELAP with only one or two full time staff members are very common. This allows many smaller and more remote facilities to be able to have their own laboratory without relying on distant commercial labs.

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Not The Only Standard:
The Expert Panel hired by ELAP specifically recommended the TNI standard. However, other national accreditation standards and programs include: ISO 17025 standard, A2LA, WVLAP, PJLA, ANSI, ANAB, and IAS. We request that all available standards be reviewed, that this review be conducted by industry experts, and that a verification process be established to ensure that there is no conflict of interest among said experts.

TNI's True Cost Before Implementation:
We believe that it is extremely important that the proposed documents which would form the core of ELAP's new regulations be made publically available for free. Since the TNI standard is copyrighted for $130 per single copy, it cannot be duplicated even if the copies are to be kept at the same physical lab. A network version of the standard is available for $320. This does not include the additional cost of the Implementation Guide for Small Laboratories at $150, and the QA Manual Template for another $150. As ELAP pointed out in their letter, TNI does offer training and templates to help make the transition easier, but they are offered to TNI members at $10 per SOP and $40-200 for webinar training. Annual TNI Membership is on top of those other costs.

TNI Tried the "Power Play" Before:
In 2006, TNI tried to super cede the EPA Quality Standards. The American Water Works Association did not believe that NELAP (TNI) standards were more beneficial for the vast majority of laboratories providing compliance data under both the Safe Drinking Water Act and the Clean Water Act by providing these six points:

1. The Quality of laboratory testing will not necessarily improve as a result of adopting NELAC standards.
2. "A single standard for all labs" will not meet the needs of all projects/programs
3. NELAC will increase cost for all labs. NELAP certification can be at least three times more expensive that typical state certification.
4. Small utility labs may be forced to close due to the added expense of NELAP; these labs are essential to the long term, robustness of the utility's treatment facilities.
5. Some states have standards in place (eg, California's ELAP) which are similar to NELAC,consequentially any marginal benefit of adopting NELAP is even smaller in these states.
6. State labs currently certified by EPA, certification by another state agency and reciprocity such as in NELAC, can create conflict of interest

In Other California Regulations, One Size Does Not Fit All:
When looking at the Expert Panel's review of the ELAP system, it was noted that the majority of the concerns they found had to do with ELAP itself and how it conducts itself, not the laboratories that are producing results. Thus just pulling an "all-inclusive" program off the shelf may not be the best fit for the State of California. Drinking water and wastewater regulation compliance are based off the size of the system. For instance, drinking water systems for a large community, a medium non-community, and a small non-transient community drinking most likely have different compliance needs. "One regulation/start testing date for all" does not fit in California due to the large size variability of agencies and cities served.

The City of Brentwood laboratory is an efficient and effective two-person lab with the occasional part time intern. The mission of the lab is to protect the health and environment of the citizens of Brentwood including the aquatic ecosystem in the Marsh Creek that runs through the middle of town. This ELAP-certified lab successfully performs drinking water and wastewater tests for the City's drinking water system and wastewater plant, including its highly successful recycled water program. Therefore it is requested that ALL California labs not be forced to achieve TNI's national accreditation, if implemented.

Analyst Certification:
Drinking Water Treatment Operators, Drinking Water Distribution Operators, and Wastewater Treatment Operators are all certified by the State. Laboratory Analysts are certified by both American Waterworks Association (AWWA) and California Water Environment Association (CWEA). Like all three State Operators, Lab Analysts are required to renew their certificates and attend continuing education classes. The TNI standard makes no mention of requiring certification, only educational requirements for a few leading lab positions.

Postponement:
We strongly recommend that the State Board to postpone this workshop and extend the comment period so that smaller commercial and agency labs will have sufficient time to procure, review and analyze the 2016 TNI document. Given the potential implications to our public health, safety and welfare, we feel that a thorough review is necessary by all interested parties.

Thank you for your consideration on this matter.

Sincerely,

Miki Tsubota, P.E., L.S.
Director of Public Works/City Engineer

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by email (commentletters@waterboards.ca.gov)

Permits Supported by the City of Brentwood's Water Quality Laboratory (ELAP #2577)
Drinking Water System # CA-07-10004
NPDES Order #CA0082660, City of Brentwood Wastewater Treatment Plant
Water Quality Order #WQ 2014-0090-DWQ, Recycled Water Use