Sediment Quality Obj.
Deadline: 11/28/06 5pm

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Development of Sediment Quality Objectives for Enclosed Bays and Estuaries of California, CEQA Scoping Meeting Informational Document

Tri-TAC appreciates the opportunity to comment on the CEQA Scoping Meeting Informational Document for the Development of Sediment Quality Objectives for Enclosed Bays and Estuaries. Tri-TAC is a technical advisory group for Publicly Owned Treatment Works (POTWs) in California comprised of members from public agencies and other professionals responsible for wastewater treatment. Tri-TAC is jointly sponsored by the California Association of Sanitation Agencies (CASA), the California Water Environment Association (CWEA), and the League of California Cities. The constituency base for Tri-TAC collects, treats and reclaims more than two billion gallons of wastewater each day and serves most of the sewered population of California.

Tri TAC commends the State Water Board staff and Science Team for the approach taken and the excellent work to date that has gone into the development of sediment quality objectives (SQOs) for the enclosed bays and estuaries of California. We are also supportive of the project structure that the State Water Board has utilized in the SQO development effort, which has enlisted national sediment quality experts as peer reviewers and advisors on the Scientific Steering Committee, and also diverse stakeholder representatives on the Advisory Committee to provide ongoing feedback to the Science Team.

We offer the following comments on the CEQA Scoping document to provide productive input on the scope and content of Phase 1 of the sediment quality objective program in California and the information to be included in the draft Substitute Environmental Document (SED) for the program.

Comments on CEQA Scoping Informational Document

Our comments are organized below to match the structure and order of the CEQA Scoping document. As such, the order of the comments listed below does not reflect the priority that we attach to these comments. To provide a sense of priority, bold font is used to highlight comments of highest priority to Tri-TAC. As requested, our comments provide recommendations and suggestions on the proposed range of actions, alternatives, mitigation measures and potential effects resulting from the proposed sediment quality objectives program.

Section 1.5, Program Goals: We suggest the addition of the following to the first bullet "that provide reasonable protection of beneficial uses in the enclosed bays and estuaries of California". We also suggest addition of a fifth bullet that states "Adopt a program of implementation that fulfills the requirements of Sections 13241 and 13242 of the California Water Code and efficiently integrates sediment quality objectives into ongoing regulatory programs."

Section 2.2, To What Waters Should the SQOs be Applied?: We believe Alternative 3 should be clarified to state that the interim measures adopted in estuaries would still be guided by the approach taken in the establishment of tools, testing protocols, assessment methods, and lines of evidence for enclosed bays. Please refer to additional comments on this topic under Section 2.19.

Section 2.10, What Lines of Evidence are Needed to Assess Sediment Quality?: **We strongly support Alternative 3, which would base the SQOs and associated policy on application of a Multiple Line of Evidence (MLOE) approach using a suite of tools and lines of evidence that have been validated and evaluated using existing data from California bays and estuaries.** We also recommend that the State Water Board provide a definitive commitment within five years to use new data collected in the first several years of SQO implementation for further validation and/or development of California bays and estuaries-specific tools.

Section 2.18, How Should the Date from Each Direct Effects LOE be Integrated?: **We strongly support Alternative 2**, which would employ an integration method that is based upon a transparent, logic-based framework that has been evaluated for accuracy relative to expert opinion and is supported by independent scientific peer review.

Section 2.19, What are Some of the Interim Tools that Could be Applied to the Delta and other Estuaries?: We have significant concerns that the interim tools described in this section will not have the same scientific foundation as the proposed tools and line of evidence developed for enclosed bays. Our concern is heightened by the absence of benthic community data or assessments in estuaries. We agree with the statement in the document that most estuaries, including the Sacramento-San Joaquin Delta, have

not been monitored routinely to assess the impact of toxic pollutants to sediment dwelling organisms. As a result, the robust data sets needed are far too sparse for the development and validation of assessment tools on par with those proposed for use in enclosed bays. **Since the necessary tools are generally not available in estuaries, we recommend that these interim approaches not be implemented in Phase 1.**

If a decision is made to go forward with some version of the interim tools, we recommend that the adopted Phase 1 policy state that use of the interim tools will not trigger significant regulatory response beyond a call for data collection, tool development and validation of lines of evidence. In other words, the outcomes from the use of interim tools should generally be "Inconclusive" unless overriding scientific evidence dictates a different outcome. The work performed on data collection, tool development and validation, etc. would lead to scientifically supportable proposals for estuaries in Phase 2.

Section 2.20, Should Interim Tools Sunset in SQO Plan?: We are generally in favor of a sunset provision on the use of interim tools, although this position will be influenced by the tools selected and the potential outcomes that result from use of the interim tools, as described in our comment on Section 2.19.

Section 2.21, How Could the SQOs be Applied?: This section is missing the discussion and selection of alternatives.

Section 2.22, How Should an Exceedence of an SQO be defined?: **Tri-TAC supports Alternative 2, which states that an SQO exceedence be defined based on consideration of multiple stations within a water body, rather than based on results for a single station.** This section (and the associated section in the plan itself) must be augmented significantly to identify and describe the policy and procedure by which the exceedences determination will be made. Tri-TAC is willing to work with SWRCB in the development of this essential policy and procedure.

Section 2.24, Could the SQOs be Applied within NPDES Permits?: We are supportive of the application of SQOs in NPDES permits as receiving water limits and, are strongly opposed to the use of effluent limits in NPDES permits to implement SQOs. We agree with the position that effluent limits cannot be derived from SQOs until appropriate and necessary studies are completed to establish the cause of an SQO violation and the linkage of that causative agent to an NPDES discharger. We have the following requests regarding the use of receiving water limits: (1) That receiving water monitoring would not be included in an NPDES permit if the discharger is participating in a regional coalition to work on SQO monitoring and follow-up investigations; and (2) That receiving water limits incorporated in NPDES permits shall include language specifying that discharger shall not be judged to be in violation of such limits unless it is demonstrated that the discharge is causing the SQO exceedence.

The above position is also dependent on the specifics of the associated NPDES permit follow-up action requirements discussed in Section 2.25.

Section 2.25, Should the Plan Include Follow-up Actions for Permittees When an Exceedence Occurs?: The suggested approach for follow-up action clearly requires additional attention to more fully develop and evaluate specific procedures and actions to identify stressors and sources of stressors. Tri-TAC is willing to work with the State Water Board and its Science Team to better define these procedures and actions. Tri-TAC believes that the follow-up actions to SQO exceedences will best be handled through regional or sub-regional approaches akin to the toxicity identification evaluation (TIE) and TMDL processes.

Preliminary Draft Plan, Section I.B., Summary of Plan: We recommend adding item c to the Program of Implementation, as follows: Policy for rapid incorporation of SQOs and implementation measures into existing TMDLs to ensure use of best available scientific information.

Preliminary Draft Plan, Section I.C., Review of Plan: We recommend that the first review of the plan be mandated to occur within five years and that it be linked to the Phase II SQO effort to better ensure that data collected during Phase I will be used to develop validated tools and lines of evidence in enclosed bays and estuaries.

Preliminary Draft Plan, Section II.E. Discharges: We recommend that the proposed language be modified to clarify that the implementation measures described in the plan, including monitoring requirement, apply initially to direct discharges to bays and estuaries.

Preliminary Draft Plan, Section V.H. Assessing Exposure to Toxic Pollutants in Sediment: We suggest that language be added to clarify that the tools described in this section have been evaluated and validated as part of the Phase I SQO development effort. We also suggest that specific language be added to emphasize the use of EPA approved low detection limit analytical methods in application of the specified exposure methods.

Preliminary Draft Plan, Section V.J. Missing Benthic LOE: As stated above in our comments on Section 2.19 of the document, Tri-TAC is not in favor of the use of the proposed approach employing two lines of evidence (chemistry and toxicity). Further, Tri-TAC requests that Table 3.10 be significantly modified to substitute findings of "Inconclusive (pending performance of benthic analysis and testing using validated methods)" for any of the proposed findings that indicate an impact, i.e. "Clearly impacted, Likely Impacted", etc. We request that qualifiers be added to Table 3.10 to

state clearly that this is a proposed interim tool and that this table should only be used to target future monitoring given the deficiencies noted in Section 2.19 of the document.

Preliminary Draft Plan, Section V.K., Exceedances and Listings: The specifics of the proposed plan with regard to the implications of exceedences at the station level, at the water body level, or on 303(d) listings is missing from the document. Tri-TAC understands that the State Water Board is still developing these procedures and offers our assistance in the development and/or review of these important policy decisions at the appropriate time. Tri-TAC favors an approach that will address the severity and spatial extent of SQO problems using multiple station results gathered through iterative monitoring and evaluation. Further Tri-TAC favors a 303(d) listing approach that focuses on the most specific descriptions of sediment impairment that is possible (in terms of spatial coverage and causation) based on the above monitoring and evaluation. Tri-TAC favors detailed description of the tools and methods to be used for this evaluation in the SQO implementation language.

Preliminary Draft Plan, Section VII. Program of Implementation. We recommend that this section of the plan be organized according to either phases (Phase I versus Phase II), locations (Enclosed Bays versus Estuaries), or both.

Preliminary Draft Plan, Section VII. A. Program of Implementation, Receiving Water Limits: We request that language changes that are described in our comments on Section 2.24 regarding the use of receiving water limits to implement SQOs in NPDES permits be added. Also, we request that monitoring requirements to state that sediment monitoring will be required for dischargers to enclosed bays in the next NPDES permit after adoption of the Phase I SQOs. The need for repeated monitoring in subsequent NPDES permits should be evaluated on a water body-specific basis.

Preliminary Draft Plan, Section VII. B.6. Program of Implementation, Sediment Monitoring, Monitoring Schedule and Frequency: Tri-TAC favors a monitoring approach consisting of an intensive initial round of monitoring, followed by additional iterative monitoring where necessary to refine the spatial extent of problem areas and investigate causes and solutions for identified problems. Tri-TAC does not favor routine monitoring by all dischargers in all locations if the results of the first round of monitoring indicate the absence of impacted sediments.

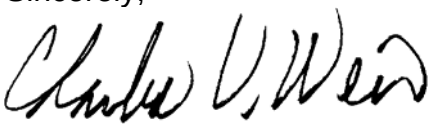
Preliminary Draft Plan, Section VII.C. Program of Implementation, Focused Studies: Additional work is needed to refine the procedures and methods that would be required to confirm and characterize toxic pollutant related impacts, identify pollutants and sources, and identify and implement subsequent management actions. Tri-TAC is willing to work with the State Water Board and its Science Team to better define these procedures and actions. Tri-TAC believes that the follow-up actions to SQO

exceedences will best be handled through regional or sub-regional approaches akin to the TIE and TMDL processes.

Preliminary Draft Plan, Section VII.D. Program of Implementation, Existing Management Actions: Tri-TAC requests that specific language be added to the plan that would direct Regional Water Boards to re-open TMDLs to make use of the new information created in the SQO development process. These TMDLs have been adopted to address sediment quality issues using scientific information and approaches that predate the sediment data, SQOs, tools, methods, and policies contained in this plan.

Again, we appreciate the opportunity to provide comments on the CEQA Scoping document and look forward to working with you in the development of the SQO Program for Enclosed Bays and Estuaries in California.

Sincerely,



Charles V. Weir
Chair, Tri-TAC

c: Bay Area Clean Water Agencies
California Association of Sanitation Agencies
Southern California Alliance of POTWs
Central Valley Clean Water Association

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