



November 27, 2006



0545 Armstrong Avenue
Mather, CA 95655
Tele: [916] 876-6000
Fax: [916] 876-6160
Website: www.srcsd.com

Song Her, Clerk to the Board
Executive Office
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Board of Directors
Representing:

- County of Sacramento
- County of Yolo
- City of Citrus Heights
- City of Elk Grove
- City of Folsom
- City of Rancho Cordova
- City of Sacramento
- City of West Sacramento

Dear Ms. Her:

Subject: Comment Letter – Sediment Quality Objectives

The Sacramento Regional County Sanitation District (SRCSD) appreciates the opportunity to provide written comments on the State Water Resources Control Board's (SWRCB) CEQA Scoping Meeting Informational Document for the Development of Sediment Quality Objectives for Enclosed Bays and Estuaries. SRCSD is a regional sanitation district that serves over a million customers in the Sacramento metropolitan area and owns and operates the Sacramento Regional Wastewater Treatment Plant (SRWTP). The SRWTP discharges directly into the Sacramento River downstream of Freeport, which is in the northern portion of the Delta. As a result, SRCSD will be directly affected by this newly proposed regulatory program.

SRCSD commends the SWRCB 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 also support the project structure that the SWRCB has utilized in the SQO development effort, which has enlisted national sediment quality experts as peer reviewers and advisors on the Scientific Steering Committee, interacting with diverse stakeholder representatives on the Advisory Committee to provide ongoing feedback to the Science Team. We encourage the SWRCB to maintain this structure and process as the policy continues to advance through the regulatory process.

SRCSD offers 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 following draft Substitute Environmental Document (SED) for the program. Our comments are provided in two parts. The first presents comments on topics of key importance to SRCSD. The second part provides detailed item-by-item comments on the entire Scoping document.

Part 1: SRCSD Key Issues in CEQA Scoping Informational Document

SRCSD offers the following major comments on the CEQA Scoping document for Phase 1 of the sediment quality objective program in California:

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Use of Two Lines of Evidence in the Sacramento-San Joaquin Delta.

SRCSO joins with the Scientific Steering Committee and many others in opposition to the suggested use of two lines of evidence (chemistry and toxicity) to interpret the narrative SQOs in the Delta, as described in Table 3.10 of the document. SRCSO requests that Table 3.10 either be eliminated entirely or be significantly modified to substitute findings of “Inconclusive/needs additional study” for any of the findings that indicate knowledge of impact. SRCSO points out that neither the sediment nor chemistry tools proposed for use in Table 3.10 have been verified for use in the Delta.

Further, the proposal to move forward without benthic community information, which is the most important of the three lines of evidence, significantly limits the interpretation of the results that would be relied upon in Table 3.10. If it is retained, SRCSO requests that Table 3.10 be clearly identified as a proposed interim tool that would only be used to guide the need for additional monitoring and additional validated tool development.

Use of Multiple Lines of Evidence to Assess Sediment Quality

SRCSO strongly supports application of a Multiple Line of Evidence (MLOE) approach in the implementation of sediment quality objectives for the protection of benthic organisms. SRCSO also supports the development and validation of California-specific tools for the three lines of evidence (benthic community indices, sediment toxicity and sediment chemistry) for the Delta.

SRCSO is opposed to the use of less than three lines of evidence for purposes other than establishing the need for collection of additional data, and are against any use of a single line of evidence in the implementation of sediment quality objectives, for any purpose. We believe that information developed by the SWRCB project team and the Scientific Steering Committee indicates that use of a single line of evidence is not scientifically supportable and has no precedent elsewhere in the country.

Sediment Monitoring

SRCSO favors development of a Delta-wide monitoring program funded by the SWRCB. SRCSO does not favor routine monitoring by dischargers in the Delta until validated test methods for the three lines of evidence are developed.

Implementation of SQOs in NPDES Permits

SRCSO is supportive of the application of SQOs in NPDES permits as receiving water limits, with the following qualifiers: (1) That receiving water monitoring shall not be included in an NPDES permit in the Delta until validated monitoring procedures and methods are developed by SWRCB; 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 exceedance.

SRCSO is strongly opposed to the direct use of SQOs to establish effluent limits in NPDES permits. Under USEPA regulations, effluent limits are pollutant specific and are established where a discharge is determined to cause or contribute to the violation of a water quality objective. Sediment quality objectives are not addressed in USEPA regulations governing NPDES permits or effluent limits. Additionally, the methodology to connect sediment quality problems to specific pollutants or to specific discharges is complex and does not allow simple judgments in the establishment of NPDES permit requirements. Therefore, implementation language for SQOs must outline the requisite analyses and findings that must exist before the establishment of effluent limits in NPDES permits would be appropriate.

Exceedance of an SQO

SRCSO supports an approach in which an SQO exceedance shall be defined based on consideration of multiple stations within a water body, rather than based on results for a single station (Alternative 2). SRCSO recognizes that the multiple station approach is still in development. SRCSO will provide comments on the proposed approach after it is released for public review.

SRCSO notes that the implications of SQO exceedances at the station level or at the water body level are under development. Additional work is needed to identify and refine the procedures and methods that would be required to confirm and characterize pollutant related impacts, to identify stressors and sources of those stressors, and to identify and implement appropriate management actions. SRCSO believes that, given the complexity and nature of sediment quality and sediment transport, these follow-up actions will best be handled through regional assessments employing conceptual modeling and source identification approaches commonly used in the TMDL process. SRCSO requests that management responsibilities for sediment quality improvements be proportional to contributions from existing and historic sources.

Part 2: SRCSO Detailed Comments on CEQA Scoping Informational Document

Our comments are organized below to match the structure of the CEQA Scoping document. 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:

SRCSO recommends 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?:

SRCSO is very concerned that SQOs could ultimately be developed for estuaries without the benefit of extensive data and information. The SWRCB needs time to collect the appropriate data for estuaries in general and the Delta in particular. Until such information is collected, the SWRCB should not embark on the development of SQOs for estuarine habitats. SRCSO is not completely opposed to alternative #3, however, we are concerned about the impact that data collection efforts may have on all POTWs that discharge into the Delta and the impact of interim measures. Until the interim measures are clearly identified and understood by SRCSO, it is difficult to support a preferred alternative.

Section 2.6, What Beneficial Uses Should be Specifically Addressed within the Proposed SQO Plan?:

SRCSO strongly supports the SWRCB's preferred approach to limit the application of SQOs to beneficial uses that are linked to specific receptors such as marine and estuarine habitat. However, SRCSO would not support an approach that links SQOs to all beneficial uses.

Section 2.10, What Lines of Evidence are Needed to Assess Sediment Quality?:

We also 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 other California bays and estuaries, and should also be used in the Delta.

Section 2.11, What Type of Objectives Should be Utilized in the Proposed Policy?:

SRCSO understands and supports the need to utilize narrative objectives for sediment. However, narrative SQOs must be implemented using the MLOE identified in the policy. The narrative SQOs must also be clearly written to require the use of MLOE, and direction based on the use of the MLOE so that there is no confusion as to their application and interpretation. The SWRCB must avoid crafting narrative objectives that are vague and misinterpreted with out the proper data and information.

Section 2.18, How Should the Data 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?:

SRCSO is opposed to the staff's recommended alternative for using sediment toxicity and chemistry to implement a narrative SQO for the Delta. Instead, we believe that the application of narrative SQOs to the Delta and other estuaries should be delayed until the data is collected in Phase II and the technical team has time to develop appropriate tools. The premature application

of narrative SQOs in the absence of all necessary MLOE may result in regulations and permit limits that are over or under restrictive for the situation at hand. At most, the SWRCB should consider interim tools that involve data collection and tool validation if there is clearly a connection between a discharge and a high level of impairment. Unless there is a strong degree of confidence between the connection and impairment, interim tools should not be utilized.

Section 2.20, Should Interim Tools Sunset in SQO Plan?:

As stated in Section 2.19, we do not support the use of interim tools until the SWRCB has the opportunity to collect the necessary data and develop the appropriate tools. Therefore, SRCSD supports language for the narrative objective that links application of the objective to the completion of Phase II. Unless Phase II is completed, the narrative SQO would not apply. This will provide the SWRCB with the appropriate incentive to move forward. Should the SWRCB determine that it is absolutely necessary to adopt interim tools, SRCSD supports a clear sunset clause of the narrative SQO should Phase II not be completed in a timely manner

Section 2.21, How Could the SQOs be Applied?:

This section is missing the discussion and selection of alternatives. In general, we support the application of SQOs to the Delta after a robust data set has been developed and the appropriate tools have been developed.

Section 2.22, How Should an Exceedance of an SQO be defined?:

SRCSD supports Alternative 2, which states that an SQO exceedance be defined based on consideration of multiple stations, rather than based on results for a single station, and the use of magnitude and extent as it is appropriate when addressing sediment.

Section 2.24, Could the SQOs be Applied within NPDES Permits?:

We are initially supportive of the application of SQOs in NPDES permits as receiving water limits. This is a better alternative than trying to calculate an effluent limit. However, the receiving water limit must include language that requires a clear showing that the NPDES discharge is causing the violation of the SQO before the NPDES permit holder can be tagged with a violation of the receiving water limit. More importantly, narrative SQOs should not be applied in NPDES permits for dischargers to estuaries (i.e. the Delta) until after Phase II is completed. It would be unfair and scientifically unsound to include receiving water limits in these permits until the data is collected and the appropriate tools are developed.

Section 2.25, Should the Plan Include Follow-up Actions for Permittees When an Exceedance Occurs?:

Before including follow-up actions as part of the Implementation Plan, the follow up actions must be clearly developed and be appropriate to the issue of SQOs. Also, there must be a clear link between the exceedance and the NPDES permit holder before a NPDES permit holder is held responsible for follow up actions. There are many different types of discharges to the Delta

that may affect sediment quality and NPDES permittees should not be responsible for exceedences that are caused by others.

Preliminary Draft Plan, General Comment:

The Preliminary Draft Plan must be revised to better reflect the two phases associated with the implementation of SQOs. As it stands, the Draft Plan applies equally to bays and estuaries. Until data is collected and appropriate tools are developed, the implementation provisions should not apply to estuaries.

Preliminary Draft Plan, Section I.B., Summary of Plan:

We recommend adding item c to the Program of Implementation, as follows: “Policy for incorporation of SQOs and implementation measures reflecting best available scientific information into existing TMDLs.”

Preliminary Draft Plan, Section I.C., Review of Plan:

We recommend that the initial review of the plan 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 estuaries. Consequently, this section should be amended to include a sunset provision that is linked to the completion of Phase II for estuaries.

Preliminary Draft Plan, Section II.E. Discharges:

The language of this section should be amended to better clarify the SWRCB’s intent. SRCSD recommends that the section be revised as follows:

“The Implementation Provisions of this Plan are intended to apply initially to direct discharges into bays and estuaries and not discharges that occur upstream.”

Preliminary Draft Plan, Section IV.A. Aquatic Life:

SRCSD recommends that the second sentence of this item be re-phrased as follows:

“This narrative objective shall only be interpreted using MLOE as described in Section V of the policy.”

Preliminary Draft Plan, Section IV. B. Human Health:

We also suggest that the second sentence of this statement be revised as follows:

“This narrative objective shall only be interpreted as described in Section VI of the policy.”

Preliminary Draft Plan, Section V.A. General Intent:

To be consistent with the changes suggested above in Section IV, the language in Section V.A must also be amended to use the term interpreted versus implemented. SRCSD believes, that in fact, the implementation policy is for interpreting the narrative objective, versus implementing a narrative objective. While the impact of the two terms remains the same, the word interpreted is consistent with the State's accepted practices and policies with regard to the interpretation of narrative objectives.

Preliminary Draft Plan, Section V.C. Water Bodies:

As previously expressed, SRCSD is opposed to the application of this policy to bays and estuaries where data is not presently available to develop and validate the appropriate tools to apply the multiple lines of evidence. We do not support the inclusion of language that would allow the interpretation of the narrative SQOs with only chemistry and toxicity lines of evidence. To clarify the application of this policy, SRCSD recommends that sub-section V.C.2. be revised as follows:

“For all other bays and estuaries, this Policy should not apply until the appropriate benthic tools are available and validated.”

Preliminary Draft Plan, Section V.D. Field Procedures; and Preliminary Draft Plan Section V.E. Laboratory Testing:

These two sections should be combined and identified as data requirements. The section should then clearly state that only data meeting these requirements shall be used to interpret the narrative SQOs.

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 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 several sections of the document, SRCSD is not in favor of the use of the proposed approach employing two lines of evidence (chemistry and toxicity). We recommend that section J either be deleted or amended as follows:

“In waters where one line of evidence is missing, the narrative SQOs shall not apply.”

Preliminary Draft Plan, Section V.K., Exceedances and Listings:

The specifics of the proposed plan with regard to the implications of exceedances at the station level, at the water body level, or on 303(d) listings is missing from the document.

Preliminary Draft Plan, Section VII. Program of Implementation.- General Comment:

As stated previously, SRCSD does not support that application of the Program of Implementation to estuaries until the appropriate interpretation tools have been developed. Thus, the program of Implementation should be revised to clearly divide between its applications to dischargers that discharge to the waterbodies identified in Section V.C.1. and discharges to waterbodies not identified. After Phase II is completed, we would support the application of the program of implementation with the following suggested changes identified below.

Preliminary Draft Plan, Section VII. A. Program of Implementation, Receiving Water Limits:

SRCSD supports the implementation of SQOs as receiving water limits when the Regional Board can demonstrate that there is reasonable potential that the discharge of a bio-accumulative pollutant may cause an exceedance of an applicable SQO or SQOs. It is important to note that the SWRCB's development and adoption of SQOs is being done pursuant to the California Water Code and that SQOs are not water quality standards established under section 303 of the federal Clean Water Act. Because the SQOs are not water quality standards established under section 303 of the federal CWA, the SWRCB can implement the standards through receiving water limits in NPDES permits versus using effluent limits.

However, SRCSD is concerned with the current standard contained in the receiving water language that ties implementation of the standard to the Regional Board's "belief." The Regional Board's belief is not an adequate evidentiary basis for a permit limitation and for new monitoring requirements. Instead of relying on the Regional Board's belief, the Regional Board must be required to demonstrate that reasonable potential exists. With regard to the monitoring language contained in section VII.A., we recommend that it be removed from this section as it is addressed below in section B.

To clarify when the receiving water limit would be applicable, we suggest the following language:

"The SQOs shall be implemented as receiving water limits in NPDES permits where the Regional Board has demonstrated that there is reasonable potential for the discharge to cause an exceedance of an applicable SQO or SQOs."

Preliminary Draft Plan, Section VII. B. Program of Implementation, Sediment Monitoring:

SRCSD is concerned that the Sediment Monitoring language in section VII.B. implies that the NPDES permit holders will solely be responsible for the collection of adequate data to develop appropriate tools for interpreting SQOs. We are not opposed to monitoring sediment when there is a direct connection between an agency's discharge and an exceedance of a SQO to determine if the discharge violates receiving water limits. However, SRCSD believes that it is the SWRCB's responsibility to collect adequate data for the development of appropriate tools. The monitoring program described in Section VII.B. appears to apply most appropriately to

waterbodies where the interpretation tools have been adequately developed. Until that occurs for other waterbodies, these provisions should not apply. To be consistent with our comments above, we recommend that VII.B.2.a. be amended as follows:

“Where the State Water Board or Regional Water Boards can demonstrate that there is reasonable potential that the discharge of a bio-accumulative pollutant may cause an exceedance of an applicable SQO or SQOs, sediment quality monitoring shall be required as appropriate. However, the State Water Board or a Regional Water Board may exempt low volume discharges from this monitoring requirement.”

With regard to the Monitoring and Scheduling Frequency, we recommend that the section VII.B.6.a. be amended as follows:

“Permittees shall, at a minimum, monitor sediment quality as described in this Plan at least once per permit cycle if the Regional Board has demonstrated that the discharge has reasonable potential to cause an exceedance of a SQO.”

Preliminary Draft Plan, Section VII.C.4.b Program of Implementation, Focused Studies:

To clarify the SWRCB’s intent regarding the management actions for multiple sources, SRCSD recommends that section VII.C.4.b. be amended as follows:

“If the Regional Board determines that multiple sources are responsible for discharging the stressor pollutant that causes an exceedance of the SQO, the Regional Board shall require the sources to take all necessary and appropriate steps to address the exceedance(s). If the SQO exceedances are deemed to cause impairment to the waterbody in accordance with the State’s TMDL listing policy, then the Regional Board may be required to adopt a TMDL to ensure attainment of the sediment standard.”

Preliminary Draft Plan, Section VII.D. Program of Implementation, Existing Management Actions:

SRCSD requests that specific language be added to the plan that would direct Regional Boards to re-open TMDLs that have been adopted and review exiting Basin Plan provisions to address sediment quality issues to utilize the SQO objectives, methods and policies contained in this plan.

Conclusion:

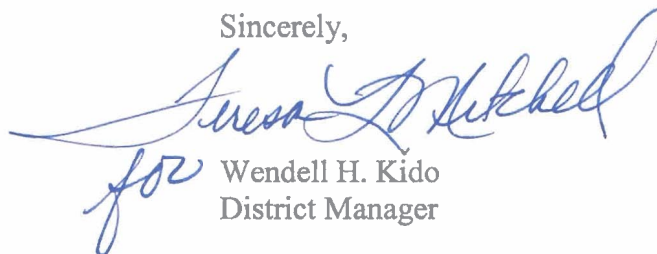
From an overall viewpoint, SRCSD appreciates the time and effort that the SWRCB has taken to put forward a scientifically sound process for addressing sediment quality objectives. We support this approach. However, we remain concerned that as drafted the Draft Policy and the Draft Program of Implementation would undermine this sound process by requiring application of the

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policy to estuaries where multiple lines of evidence and the tools to interpret the multiple lines of evidence are not yet available. As such, SRCSD recommends that the documents be amended to better define the actual phased approach that is currently being implemented by the SWRCB.

In addition to our remarks above, SRCSD also supports the comments submitted by the Bay Area Clean Water Agencies, the Central Valley Clean Water Association and Tri-TAC. 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,

A handwritten signature in blue ink that reads "Terrie Mitchell". The signature is written in a cursive style with a long, sweeping underline that extends to the left. Below the signature, the word "for" is written in a smaller, cursive script.

Wendell H. Kido
District Manager

cc: Members, State Water Resources Control Board
Celeste Cantú, Executive Officer, State Water Resources Control Board
Mary Snyder, SRCSD
Terrie Mitchell, SRCSD
Chris Beegan, State Water Resources Control Board