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- Air Quality Committee Report
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Upcoming Meetings

Air Quality

Tuesday, November 23, 2010
10 am - noon @ LACSD

Biosolids

2011 TBA

Collection Systems

Thursday, November 18, 2010
9 am - 1 pm @ LADPW, City of
Alhambra, CA

Energy Management

2011 TBA

Water Issues

2011 TBA

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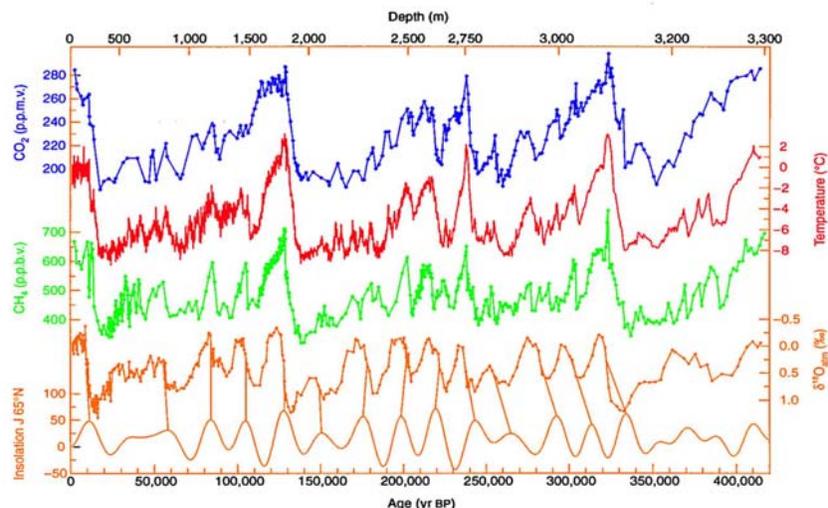


A Message from the Executive Director...

Welcome to Seattle south! With the amount of rain we have been getting so early in the season I have to keep reminding myself that we are not living in the northwest. However, with the holiday season right around the corner the cool weather is a welcome relief from the heat of summer even though all of the talk about global warming leads us to believe that the respite is only temporary. Or

is it? Just like the pros and cons discussed ad nauseam in conjunction with the recent November ballot measures, especially Proposition 23, the debate over global warming versus global cooling continues to rage.

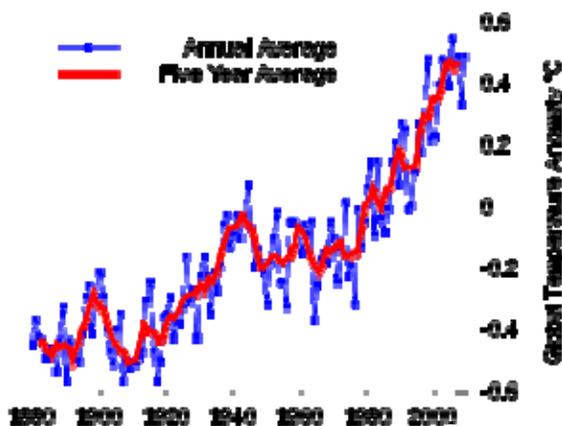
For instance, at the last United Nations Global Warming Conference held in Poznan-Poland, 650 of the top climatologists in the world reported that man-made global warming is a media generated myth without any real basis. The exasperated Chairman of the International Geological Congress, Mr. David Gee, was quoted as saying, "For how many years must the planet cool before we begin to understand that the planet is not warming? As further evidence of his contention, satellite photos released by the University of Illinois Climate Research Center conclusively show that the Arctic ice is back to its 1979 levels [editor's note: does anyone know what happened to that hole in the ozone layer we were so worried about back in the 1990's?]. Even the Russians have gotten into the act. A massive study by the Russian government contains overwhelming evidence that the earth is on the verge of another Ice Age. Results from an on-going ice boring operation at Russia's Vostok Station in Antarctica, in which the oxygen isotope composition of the ice samples are studied to determine the earth's atmosphere and temperature over the last (the following graph is courtesy of Wikimedia Commons)



420,000 years, suggests that the last 12,000 years of warmth, during what is called the Holocene Period, is over and we are now heading into an ice age for the next 100,000 years [editor's note: give or take 10,000 years or so]. The study goes on to theorize that CO2 fluctuations over the course of history are influenced primarily from natural causes and more precisely follow the change in ocean temperature, concluding that with a rise in ocean temperature the oceans release additional CO2 to the atmosphere. This theory would be in line with former NASA staffer, Mr. Roy Spencer, now the Principal research scientist at the University of Alabama, who states "that their latest research results suggest that human activity is not to blame for most of the climate change over the last 100 years".

Conversely, Richard Somerville, a distinguished professor emeritus and research professor at Scripps Institution of Oceanography, UC San Diego, recently issued a strongly worded statement in response to a recent request to address claims made by those that challenge the validity of climate change predictions.

Mr. Somerville states without reservation that the findings of mainstream climate change science are firm. He believes without a doubt that the world is warming as evidenced by documented changes in air temperatures, ocean temperatures, melting ice, and rising sea levels {i.e., average temperatures have climbed 1.4 degrees since 1880; Montana's glacier National Park now has only 27 glaciers, versus 150 in 1910; in 1998 coral reefs suffered their worst bleaching and subsequent die-off ever recorded}. He insists that the warming is not natural and human activities are to blame. He further cites the fact that carbon dioxide in the atmosphere is measurable and, based on sound science, has been shown to be increasing. According to Mr. Somerville, the standard skeptical arguments have been refuted many times over. The refutations are on many web sites and in many books. For example, natural climate change like ice ages is irrelevant to the current warming. We know why ice ages come and go. That is due to changes in the Earth's orbit around the sun, changes that take thousands of years. The warming that is occurring now, over just a few decades, cannot possibly be caused by such slow-acting processes. But it can be caused by man-made changes in the greenhouse effect".



Mr. Somerville goes on to say, "the leading scientific organizations of the world, like national academies of science and professional scientific societies, have carefully examined the results of climate science and endorsed these results. It is silly to imagine that thousands of climate scientists worldwide are engaged in a massive conspiracy to fool everybody".

Well, there you have it, two differing views of a complex problem that has many of the world's foremost experts vehemently proclaiming their opinion as the truth and refuting those that disagree. Much in the same way, we are coming to a loggerhead of sorts with the State Water Resources Control Board over its proposed Whole Effluent Toxicity (WET) policy. If you thought your agency might be adversely affected by future climate change regulations, those effects pale in comparison to the coming

tribulations all NPDES permit holders will endure if the proposed policy is adopted. I encourage you to read the bullet points prepared by Roberta Larson on behalf of CASA and Tri-TAC describing the impacts associated with the SWRCB's proposed WET Policy, which can be accessed at: <http://www.scap1.org/SCAP%20Alerts/10-25-10%20WET%20BULLET%20POINTS.DOC>. A public workshop has been scheduled for November 16, 2010 by the Waterboard to receive oral comments on the policy and I encourage all agencies affected by this policy to attend. Further discussion of this issue can be found in the Water Issues Committee section of this newsletter.

Arguably yours,

John Pastore, Executive Director

Committee Reports



Air Quality

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CWCCG Update by Kris Flaig, City of Los Angeles Bureau of Sanitation

Back from a bout with pneumonia and a little vacation up the coast, we find that October has been an interesting month for the SCAP Air Committee and the California Wastewater Climate Change Group (CWCCG). David Rothbart has been instrumental in organizing POTWs who operate gas-fueled, particularly digester gas-fueled ICEs in meeting with the SCAQMD on Rule 1110.2. Patrick Griffith and David Rothbart have relentlessly participated in the San Joaquin Valley APCD GHG and biomass issues. Greg Adams continues to report on the ins and outs of the Priority Reserve Lawsuits.

Similarly, a cast of characters has helped Jackie Kepke make steady progress with the CWCCG. The San Joaquin Valley (SJV) APCD was moving ahead with a proposal for a Best Practices Standard (BPS) for biomass combustion projects. Jackie submitted a well-written letter (with help from Patrick and David) in making the case for the carbon neutral character of biomass, and the practicality of excluding POTWs from any BPS.

Jackie continues to keep CWCCG members informed on pertinent federal activities, including the USEPA *National Water Program Climate Change Strategy: Key Action Update for 2010-2011*, which lists fifteen (15) specific areas of prioritized effort in Region 9. With California's very evident leadership in Cap & Trade and other air-related climate change programs, the federal approach focuses mostly on water-based programs. Another USEPA publication that Jackie noted is the *Climate Change Vulnerability Assessments: A Review of Water Utility Practices*, which examines the top-down modeling approach to evaluate the potential effects of climate change. This

paper may be more interesting to engineers, researchers, and scientists who have an inclination for working with models, or at least understanding why and how several specific models from around the world are successfully used; a few very tangible conclusions are incidental to the model descriptions.

In mid October, Jackie forwarded a link to an interesting survey that was developed by the Solar Resource and Forecasting Lab at the University of California, San Diego. This is probably the first of many surveys that public and private agencies that will make us aware of the potential of solar power and to find ways to compile data from willing participants. UCSDs survey focuses on your needs for information and research on solar radiation resources and forecasting, and gives you an opportunity to request specific information.

At our monthly meeting, we were treated to a summary of two (2) key SCAP issues, an interesting presentation by Jaclyn Ferlita of Element Markets, and the regular CWCCG agenda. SCAP leaders gave an accounting of the challenges posed by Clean Air Act Section 185, which requires fees to be paid by all major sources in any air district that is rated severe or extreme in non-attainment of the ozone standard, and Rule 1110.2, on which David Rothbart has represented SCAP interest valiantly. Jaclyn gave a slightly different twist on what specialty consultants can do for POTWs in regards to GHG offsets, renewable energy credits, and the compliance market. It was also interesting to find out that her company has an experienced design section that can help an agency achieve its renewable energy goals. John Pastore and Jackie have been vigilant in keeping us abreast with the latest in renewable energy activities and proposed regulations, including arranging informative meetings like this. Most climate change activities were unsurprisingly quiet in anticipation of the release of CARB's Cap & Trade regulation.

Greg Kester has been monitoring the CDFA and its proposed new regulation on rendering facilities that could attempt to regulate FOG; Greg has provided comments and testimony on behalf of CASA and the CWCCG.

Recently, Jackie tells us that SoCal Gas (Sempra) has been actively promoting the idea of cleaning up digester gas and putting it into the pipeline. As the next step in these efforts, they are planning to petition the

CPUC to allow them to expand their services to include developing gas conditioning facilities as well as new digestion facilities. They have asked for CWCCG's endorsement of this request to CPUC. Ron Goodman of SoCal Gas recently talked with us City of LA folks, and gave what seemed like a reasonable set of criteria on which to move forward. One key point is that any entrepreneur can assist an agency in implementing a pipeline quality gas project, while SoCal Gas must ask the CPUC for permission. Another key point is that this arm of SoCal Gas cannot own and will not enter into a contract to buy the feed stock or the end product; that would have to be done with a separate contract - with another arm of SoCal Gas (I think this is a good thing). Their interest is in providing a negotiated amount of capital, design and construction, operations, and financing service at their ROR (you can talk with Ron about that number). It really is something to think about, and I anticipate that the CWCCG will be writing a letter of support.

During the last few days of October, just days before the election, CARB released its proposed GHG cap-and-trade regulation. More than 1500 pages to read (if you want it all). We hope to digest this for discussion at the next CWCCG meeting, November 18. And, that's how it is when you live on the edge, in California.

So, on the eve of this potentially magnanimous election, the wind is a steady off shore breeze with occasional whirlwinds from the East.

Imperial County APCD

www.co.imperial.ca.us

The Imperial County APCD has a new website in operation and CAPCOA's newest Greenhouse Gas document "Quantifying Greenhouse Gas Mitigation Measures" is now available on the website under CEQA.

Imperial County APCD has announced that a copy of both the Final 2009 Imperial County State Implementation Plan for PM₁₀ (2009 PM₁₀ SIP) and the Final Negative Declaration for the 2009 PM₁₀ SIP are now available on the District's website.

There are currently no new public workshops, hearings or meetings posted on the ICAPCD website for the month of November 2010.

Mojave Desert AQMD

www.mdaqmd.ca.gov

For those interested in solar power, the MDAQMD website includes a real time display of daily and yearly solar power information from within the district, as well as the amount of carbon dioxide saved.

MDAQMD has also introduced ENVIROFLASH on its website, which provides air quality forecasts directly to your computer's inbox.

MDAQMD has announced that the 2010 California Desert Air Working Group (CDAWG) Conference will be held at the Aquarius Casino Resort in Laughlin, Nevada on November 17 and 18. This year's speakers will include: Senator George Runner, CARB Chair, Mary Nichols and Kerry Drake, Associate Director/Air Division USEPA Region 9. See website for Agenda information.

The next meeting of the MDAQMD Board is scheduled for November 22, 2010. There are no new workshops or public hearings shown on the MDAQMD website for the month of November 2010.

San Diego APCD

www.sdapcd.org

San Diego APCD reports it has completed and submitted its Ambient Air Monitoring Network Plan (AMNP) for 2007 and a copy can be obtained from their website. SDAPCD will be required to submit an Air Quality Plan to EPA in 2013 outlining the emission control regulations necessary to bring the entire region into attainment.

SDAPCD has added a custom Google search engine exclusively for their website and also offers an interactive air pollution simulator program called **Smog City 2**. This program will allow the user to make decisions that affect the air quality and can then view the resulting changes that occur.

The SDAPCD is currently in the process of applying with CARB to become a Greenhouse Verification Body. If approved the verification services will be offered by contract.

A New Source Review training class, hosted by the San Diego Air Pollution Control District in partnership with the Industrial Environmental Association, will take place November 10, 2010, at the Al Bahr Shrine in Kearny Mesa. This one-day class will include a thorough overview of the NSR rules including background, definitions, applicability and major

requirements. Several case studies will also be presented. Attendance will be limited to 40 individuals so please sign up early. To RSVP or for additional information please email iea@iea.sdcoxmail.com or call (619) 544-9684.

There are no new public meetings, hearings or workshops scheduled on the District's website at this time for the month of November.

Santa Barbara APCD

www.sbapcd.org

The Santa Barbara APCD reports that they have a new fee schedule in effect as of 7/01/10, which can be viewed on their website. SBAPCD also reports that they are working with CAPCOA planning managers to develop GHG emission thresholds for CEQA reviews of new projects.

The SBAPCD, as Lead Agency under CEQA, will prepare a Draft EIR for the 2010 Clean Air Plan (2010 Plan for Santa Barbara County).

The next APCD Board meeting is scheduled for December 16, 2010. There are no workshops scheduled for the month of November at this time. There is a Community Advisory Council meeting scheduled for November 10, 2010 at 6:30 pm in Buellton. The November Hearing board meeting has been cancelled with the next meeting scheduled for December 1, 2010.

Ventura County APCD

www.vcapcd.org

VCAPCD currently has application forms available for the Carl Moyer Program. The program will provide approximately \$2 million of grant funds for projects within Ventura County. The grant funds are available to qualifying owners of heavy-duty diesel powered equipment that want to reduce air pollution by upgrading or replacing their present equipment.

The VCAPCD reports that the Draft 2009 Reasonably Available Control Measures State Implementation Plan (2009 RACT SIP) is now available for public review.

The VCAPCD reminds everyone that Tier 0 Portable Diesel Engines may not be operated in California after December 31, 2009.

There is a VCAPCD Board meeting scheduled for November 9, 2010. There is an Advisory Committee

meeting scheduled for November 2, 2010 to discuss proposed revisions to six rules regarding greenhouse gases and the EPA Tailoring rule. No hearing Board meetings are scheduled for the month of November at this time.

South Coast AQMD

www.aqmd.gov

Priority Reserve Lawsuits by Greg Adams, LACSD

Both the federal and the state cases against the use of the District's offset banks are on appeal. The federal case has been fully briefed, but a hearing date has not been established. No dates for either briefings or a trial have been established for the state appeal. Hence credits for essential public service projects continue to be issued under the provisions of SB 827 which sunsets in May 2012. The CEQA document (programmatic environmental assessment) for Rule 1315 was finally released on September 9, 2010, originally for a 45-day review period. [The release of this document is crucial as it represents a possible permanent fix to the credit bank problem as it responds to Judge Jone's original injunction based on inadequate CEQA.] The document is voluminous, perhaps 1200 pages printed on both sides. The challenge in reviewing the document is to make sure that wastewater projects of various kinds are covered in the approved "project" description out through 2030, at which point the document is to be redone as Rule 1315 sunsets. The District received a request for an extension from environmental groups so the comment due date is now set for November 9, 2010. Future new (not re-powered) power plants, in essence, will require a dedicated act of the legislature to receive credits. The one piece of good news is that the US EPA Administrator finally acted on the petition from the environmental groups to enjoin the SCAQMD from using minor source shutdowns for credits unless they were specifically identified in an approved SIP. The Administrator not only denied the petition but set forth a very reasoned analysis and history of support for Region IX's actions in the matter, going back approximately 15 years. It is the author's opinion that he 14-page memo greatly helps the District's case, certainly at the federal appeals level, since it unequivocally states EPA's position on the appropriateness of Region IX's action with the SCAQMD credit programs.

Section 185 Update by David Rothbart, LACSD

Section 185 of the Clean Air Act requires major stationary sources, in severe or extreme nonattainment areas (e.g., the South Coast, Mojave Desert, San

Joaquin Valley and portions of the Sacramento Valley Air Basins), to pay substantial penalties in the event the 1-hour ozone standard is not achieved by a certain date. Federal law requires air districts to promulgate regulations to comply with Section 185 for the imposition and collection of these penalties. Failure to do so will result in the unilateral imposition and collection of these penalties from businesses by the federal EPA. All penalties collected by EPA would then be deposited in the federal treasury and be inaccessible to local air districts. In order to avoid EPA sanctions, impacted air districts need to adopt compliant fee rules in early 2011.

Nevertheless, air districts are attempting to formulate rules without penalizing major stationary sources, which are already well-controlled. Instead, equivalent emission reductions or fees could be obtained from mobile sources, which are responsible for the vast majority of nonattainment pollution. For example, based upon authority previously granted by the state legislature in 2008, the San Joaquin Valley Air Pollution Control District (SJVAPCD) adopted a \$12 per vehicle license fee on October 21, 2010. These fees will be used to reduce mobile source emissions to help expedite attainment of state and federal ambient air quality standards.

Other air districts did not obtain authority to impose similar vehicle license fees, so alternate equivalency options are being evaluated. We are hopeful that reasonable equivalent programs can be identified, which would avoid fees from being imposed upon highly regulated stationary sources. On the other side of the coin, environmental groups are attempting to challenge any equivalency approach in an attempt to force major stationary sources to further reduce emissions.



Biosolids

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CDFA Regulatory Hearing on Rendering by Matt Bao, LACSD

At the October 21st CDFA public hearing, CASA provided testimony on the proposed rendering regulations which could require POTW's to be regulated by CDFA if they accept FOG or food waste. CASA reported that CDFA indicated that their concerns are focused on the receipt of slaughterhouse waste and raw meat, and that POTW receipt of FOG is not a concern and an exclusion in the regulation would be provided. CDFA will work with CalRecycle, the State Water Resources Control Board and CASA as this issue develops. The rule deadline is set for June 1, 2011.

EPA Proposed Standards for Sewage Sludge Incinerators by Matt Bao, LACSD

EPA announced in the October 14th Federal Register proposed rulemaking to cut emissions of mercury, particle pollution and other harmful pollutants from sewage sludge incinerators (SSIs). According to EPA, SSIs represent the sixth-largest source of mercury air emissions in the U.S. The proposed standards would apply to both multiple-hearth and fluidized bed incinerators. Units incinerating sewage sludge at other types of facilities such as commercial, industrial and institutional incinerators will be covered under different air pollution standards. Overall, the proposal would cut mercury emissions from these units by more than 75 percent. EPA estimates that the proposal would yield health benefits ranging from \$130M to \$320M in 2015, with annualized costs estimated at approximately \$105M for all currently operating units to comply with the proposal standards.

The proposed rules would establish opacity limits and emission limits for nine pollutants emitted from the regulated SSI units: mercury, lead, cadmium, hydrogen chloride, particulate matter, carbon monoxide, dioxins/furans, nitrogen oxides, and sulfur dioxide. The proposed standards may require approximately 196 of 218 SSI units to install one or more air pollution control devices including: activated carbon injection, fabric filters, or high efficiency scrubbers. The proposal also requires provisions for testing, monitoring, recordkeeping, reporting and operator training. EPA feels that the Clean Air Act (CAA) requires them to develop and adopt new source performance standards and effluent guidelines for solid waste incineration units (including SSIs) under Section 129 of the CAA, even though EPA has never regulated SSI units under section 129 before. EPA will take comment on the proposed rule until November 15th, after which the rule will be finalized in 2011 and then become effective in 2015.

EPA Cancer Slope Factor for Inorganic Arsenic Update by Matt Bao, LACSD

EPA reports that the Integrated Risk Information System (IRIS) Toxicological Review for inorganic arsenic, describing the determination of the cancer slope factor (CSF), is not yet final and EPA is waiting for final staff recommendations. The draft Toxicological review can be found [here](#). Currently, EPA is looking into the science issues and concerns expressed by stakeholders, including the biosolids industry, in response to the draft IRIS Toxicological Review. It is anticipated that a conference call will be scheduled to discuss this issue, and SCAP will report the information as it becomes available. The proposed CSF represents a 17 fold increase from the current CSF, and will be used in the IRIS for risk assessment that is likely to have significant impacts for recycled water, effluent, and biosolids standards.

Project Updates by Matt Bao, LACSD

Congratulations to the Ventura Regional Sanitation District (VRSD) who recently earned two industry honors for its new Biosolids Drying and Renewable Power Generation Facility. The Solid Waste Association of North America (SWANA) awarded the facility its 2010 Gold Award for Landfill Gas Utilization, and the California Association of Sanitation Agencies (CASA) awarded its 2010 Technological Innovation and Achievement Award to VRSD also. The facility, located at the Toland Road Landfill in Santa Paula, utilizes gas generated from decomposing solid waste to dry biosolids from local wastewater treatment plants and to generate electricity.

Holloway Mine Press Release by Terry Arca

H.M. Holloway Mine located 8 miles west of the intersection of I-5 and Hwy 46, at 14045 Holloway Rd., Lost Hills, California, is scheduled to receive the final WDR from the California Regional Water Control Board on December 8th 2010. Per the new WDRs, Holloway will enable them to start receiving both Class B and Class A biosolids. California Integrated Waste Board issued their SWFP permit May 19, 2009, which allows Holloway to receive 2,000 tons of approved waste streams per day. At the last TriTac/SCAP meeting Ken Hersh did not quote or project a gate/tipping fee. However, Holloway expects to be the most competitive price per ton available, which will afford most cities and county biosolids generators some relief in their existing expense.

We are presently entertaining potential contracts that could be finalized after December 8th. Space availability

will be on a first come basis and long term customers are very important to our consideration.



Collection Systems

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Inflow and Infiltration by Sam Espinoza, LACSD

With an increased regulatory emphasis on overflow avoidance within conveyance systems, wastewater agencies are being challenged to develop cost-effective compliance strategies to handle the elevated peak flow levels that occur during the wet weather season. The elevated peak flow levels during wet weather are a direct result of infiltration and inflow. Infiltration and inflow (I/I) are groundwater and storm water that enter the collection system through defects in sewer pipes and manholes. The infiltration portion originates from groundwater that enters the sewer pipe through defects, open or cracked joints, and deteriorated manhole walls. The inflow portion originates from storm water runoff that enters the sewer pipes through directly-connected sources, such as building downspouts, catch basins, area or yard drains, and openings or leaks in manhole covers and collars. I/I flow reduces the available hydraulic capacity of the sewer pipe and varies depending on location, system age, structural integrity, and intensity of rainfall.

Development and application of a compliance strategy is complicated by sources and circumstances outside the control of an agency such as weather. Sewer laterals on private property can represent a major contributor to wet weather flows which are beyond a wastewater agency's purview. In the case of the Sanitation Districts, the vast majority of the collection system has tributary systems that are operated and maintained by member agencies. As a result, wet weather flow contributions can vary considerably, depending upon the tributary system condition as well as the maintenance and repair practices of the member agencies. These types of dynamics demonstrate the importance of having a rainfall and wastewater flow-monitoring program to measure actual system flow performance and to allow for informed decision-making about major system improvements, such as whether to repair, relieve, or replace an asset.

Existing regulations require action, but leave many implementation decisions up to the regulated agencies. Wastewater agencies are required to document and justify their approaches to incorporating wet weather influences on collection system design or sizing in their sewer system management plans. The continued use of past, simplified approaches carries the risks of underestimating the magnitude of actual rain events, resulting in compliance violations, or overestimating flows, resulting in unnecessary infrastructure investment. Development of a hydraulic flow model using flow data gathered during actual wet weather events is considered by most agencies as the best approach for determining the required size of a sewer under various design storm conditions.

Update on Proposed WDR Revisions by Bob Kreg, SCAP

On September 21, 2010 the State Water Resources Control Board (SWRCB) staff presented their recommendations for revisions to the current statewide waste discharge requirements (WDR) for all publically owned sanitary collection systems comprised of one or more miles of pipeline. Staff made seven recommendations to the Board.

Staff recommended that private property spill reporting be mandated in all Regions. Currently it is only required in Region 9, San Diego. To offset any additional workload that an agency might acquire due to the reporting of private property spills, the state promised to streamline the spill reporting process to reduce the time necessary for spill reporting. This is currently being completed by the Data Review Committee. The state will also be providing additional safe guards against private property spill data being credited to a public agency.

The mandatory certification of all collection system operators was not recommended. Nor was the establishment of a de-minimis spill volume for which reporting would not be required. The current notification process is to be reduced to one phone call to Cal EMA. Cal EMA will be responsible to notify the required Regional Board and health care.

It had been suggested that the WDR be amended to prohibit all sewage spills not just those that reach surface waters or create a nuisance as Region 9, San Diego has done. Staff recommended keeping the current formulation of prohibitions and emphasis on enforcement discretion for all spills in the Sanitary Sewer System leaving WDR unchanged.

Staff is aware of the environmental impact that is possible from privately owned collection systems and

has recommended that private sewage collection systems should be placed under the WDR based upon their miles of pipe and potential sewage conveyed.

Some Regional Staff and NGO Groups have asked that the current WDR be rewritten as an NPDES Permit or a hybrid NPDES/WDR permit. The hybrid NPDES/WDR permit could be imposed on an agency that is currently under the WDR and has a spill that reaches surface water. In this scenario the agency's WDR could be converted into a full NPDES Permit. Staff concluded that since the WDR is still in its early stages of implementation (full implementation for all size systems was not completed until August 2010) the regulation should remain a WDR.

After the SWRCB had received staff's recommendations they asked staff for additional briefings on issues related to the NPDES/WDR hybrid permit approach, requiring operator certification, and de-minimis spill reporting. These briefings should be completed as you read this newsletter. Upon completion of the briefing the SWRCB will give guidance to staff for the preparation of the new revised WDR. It is anticipated that the new revised WDR will be available for the public review and comment in December 2010. A public workshop on the WDR revisions would be held in February with adoption by the whole Board set for March 2011. Public comments would be received during the time leading up to the workshop and for a period afterward. The SCAP Monthly Update and SCAP Bulletins will keep you informed as to when to submit written or verbal comments as well as which meetings would be best to attend.

SSO Data Review Committee Update by Bob Kreg, SCAP

The SSO Data Review Committee has completed its work on the Agency Performance Report. The final draft can be viewed at the following link: http://groups.google.com/group/sso-data-review-committee/browse_thread/thread/ba058138bdc84e5e?hl=en Except for some minor cosmetic changes this is the report that will allow collection agencies and the public to review and compare the performance of their agency to other agencies in their region and the state. All of the data in the performance report is either an agency's annual questionnaire or monthly spill reports. The data is formatted by the state and does not require any additional input from the agency other than the required questionnaire and spill reports. The SSO Data Review Committee is currently reviewing the annual questionnaire and Category I and II spill reports to ensure that only relevant data is being collected and making recommendation to improve the reporting

process. This is especially necessary as the spill reporting is being changed from appearance point to event spill reporting. Under the current appearance point program a separate spill report is to be filed for each appearance point even though there may only be one source of failure. The Data Submitter is to tie the multiple spill reports back to the single point of failure in the comments sections of the spill reports. Under the new event based system there will be one spill report for the failure with appearance point fields to capture multiple appearance points. The work that the SSO Data Review Committee is conducting is always available in Google Groups. Click on Google Groups and enter SSO Data Review Committee in the search block and you will be taken to the SSO Data Review Committee Group. All postings and other data are open for review. Only committee members may post to the group but non-members may send their comments to SCAP or to Russell Norman at the SWRCB.

Audits Are Coming! by Bob Kreg, SCAP

The WDR/SSMP requires that a formal written audit be taken of the SSMP and its elements every two years from the date your elected governing body approved your SSMP. These are to be performance based audits that review and gage the performance of each of the SSMP elements including deficiencies and changes that have taken place during the prior two years. The audit does not have to be submitted to the Region or State Board unless requested. The audits follow the same time frames as the approval of the SSMP. The first audits are due for those agencies serving a population of 100,000 or greater in May 2011. Agencies serving populations greater than 10,000 but less than 100,000 are due in August 2011. Additionally the SWRCB still intends to conduct at least 2 random enforcement audits per Region over the next year. These enforcement audits will be conducted in cooperation with the Regional staff.

Associated Press Article of Interest

RAYMORE, Mo.— A worker who descended into a city sewage system on Tuesday became unhooked from his safety line and was pushed through a 27-inch-wide pipe for over a mile before his calls for help were heard and he was rescued.

Daniel Collins, of Collins, Mo., was listed in critical condition Tuesday night at Saint Luke's Hospital in Kansas City.

South Metropolitan Fire District Chief Randy Adams said Collins was being treated for hypothermia and had

been administered antibiotics because he may have swallowed sewage.

Collins disappeared shortly after 8 a.m. Tuesday after descending into the sewage system in the town of Raymore. Adams said crews frantically searched manholes along a 1.5-mile route near a golf course. After about 90 minutes, firefighter and paramedic Antonio Smith heard Collins calling out, "Guys, I'm down here. Can you help me?" Smith was lowered into the sewer chamber and found Collins about 12 feet down. Collins appeared to have some bruises but was able to speak, Smith told KMBC-TV. "It was a miracle to find him in that condition," Smith said.

He said that he put Collins over his shoulder, and crews topside helped lift him out. Firefighters covered Collins with coats while waiting for an air ambulance. Adams said Collins "was not totally coherent. He was basically in and out, and he was very weak." Collins was tethered when he descended into the sewer and was still wearing the harness when he was found. It was unclear how he became unhooked, which allowed him to be pushed through the pipe by rushing water.

Raymore officials said Collins' employer, Rosetta Construction of Springfield, was working on parts of the city's sewer system.



Energy Management

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SCAP Air/Energy/CWCCG Meeting by John Pastore, SCAP

On October 14th the SCAP Air Quality and Energy Management Committees held a special meeting in conjunction with the California Wastewater Climate Change Group (CWCCG), which was graciously hosted by the Orange County Sanitation District.

The meeting drew a record number of attendees from all over the state and featured a presentation by Ms. Jackie Ferlita, of Element Markets, on the "Future of Greenhouse Gas Offsets and Renewable Energy Credits". After a quick update on air issues by SCAP's Air Quality Committee Chair, Kris Flaig, CWCCG's Jackie Kepke followed up the remainder of the meeting

with updates on a wide assortment of interesting topics including, the Title V Tailoring Rule, CARB's cap and trade programs, federal and state mandatory reporting requirements, plus many others.

California Air Board Releases Draft Cap and Trade Regulation for Review by John Pastore, SCAP

On October 28, 2010 CARB released its long awaited preliminary Cap and Trade Regulation for public review. As expected, the proposed regulation lowers the Greenhouse Gas reporting threshold from 25,000 metric tons of CO₂ equivalents down to 10,000 MTCO_{2e}.

Major highlights of the program are as follows:

Scope

- Starting in 2012: electricity, including imports, and large industrial facilities.
- Starting in 2015: distributors of transportation fuels, natural gas and other fuels.
- Program covers 360 businesses, representing 600 facilities.

The Cap

- Initial cap in 2012 set at emissions forecast for that year.
- When scope expands in 2015, cap increases to include emissions from combustion of fuels.
- Cap declines approximately 2 percent per year in initial period (2012-14).
- Cap declines after 2015 approximately 3 percent per year.
- Cumulative reductions needed 2012 - 2020 are 273 million metric tons of CO₂ (MMTCO_{2e}).
- 2020 cap about 15% below 2012 levels.

Equitable Allowance Distribution

- Industrial sources will start with free allocation.
- Allowances for each sector will be close to the average emissions computed from recent data, at about 90 percent, based on an efficiency benchmark for each industry.
- Distribution will be updated annually for those sectors with an efficiency benchmark based on product output.
- Electricity sector to start with set share in 2012 close to the average emissions computed from recent data, about 90 percent.
- Free distribution to utilities, with value of allowances to the benefit of ratepayers.
- Remainder of allowances will be auctioned.
- Portion of all allowances, averaging about 4 percent, go into a strategic reserve for cost containment.

- Allowances added to system for fuels starting in 2015.

Cost Containment Mechanisms and Market Flexibility Mechanisms

- Trading allowances.
- Banking of allowances.
- Allowance reserve provides allowances at fixed prices to those with compliance obligations.
- Three-year compliance periods will allow for annual variations in output.
- Program provides ample ramp-up time and doesn't begin until 2012. Thereafter, the program has three-year compliance periods in 2015, 2018, 2020.
- Offsets
- Allow the use of offsets for up to 8 percent of a facility's compliance obligation, in part to balance setting aside 4 percent of allowances for strategic reserve.

Offsets

- The Board will consider four initial offset protocols as part of the program: forestry; urban forestry; livestock (manure/methane) management; and, removing existing stock of ozone-depleting substances.
- Validity of offsets supported by independent verification.
- Includes provision to approve external offset registries (such as the Climate Action Reserve) to issue offset credits if they use ARB-approved protocols and follow regulatory requirements.
- Will have framework for future inclusion of international offset programs from an entire sector within a region.
- The 'sectoral' approach could be used in the future to help preserve international forests.

Compliance and Enforcement

- Covered facilities will surrender allowances/offsets for 30 percent of the previous year's emissions on an annual basis.
- Once every three years, covered facilities will surrender allowances/offsets covering the remainder of the emissions for that three-year compliance period (2012-14; 2015-17;2018-2020).
- If deadline is missed, obligation becomes 4 allowances for every ton of emissions.

Linkage to Other Greenhouse Gas Emissions Trading Systems

- Regulation will include framework for linking to programs of Western Climate Initiative partners.
- Staff will provide recommendation to Board in 2011 on linking with programs in New Mexico, British Columbia, Ontario and Quebec.

Mandatory Reporting Regulation

Separate regulation establishes changes to the reporting rules to make them consistent with U.S. EPA rules and to support the cap-and-trade program, including simplified reporting requirements for smaller sources.

Next Steps:

- The 45-day public comment period opened Monday, November 1st and during this time, ARB staff will continue to work with industry and other stakeholders to refine proposal and may recommend changes to Board.
- On November 18, 2010, staff will provide an overview of the proposed program to the ARB.
- On December 16, 2010, CARB will consider the proposed cap-and trade program at its December meeting
- From January through Summer, 2011, staff completes package of changes based on Board direction, and makes proposed changes available for public comment.



Water Issues

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SWRCB Whole Effluent Toxicity Policy by John Pastore, SCAP

On October 20, 2010 the SWRCB released its most recent draft of the Whole Effluent Toxicity (WET) Policy for public review and comment. A workshop has been set for November 16th in Sacramento to receive comments on the policy. Comments on the previous draft policy were submitted by various agencies and associations back in August and the hope was that the latest policy version would address many of the

concerns voiced. However, true to form, the current policy appears to have taken a turn for the worst and is light years worst than the earlier version. This policy in its present form, according to Roberta Larson, CASA's Director of Legal and Regulatory Affairs, "will extend to the regulated community as a whole – stormwater, wastewater, agriculture, industry, etc".

The following bullet points concerning the impacts associated with the proposed WET Policy were prepared by concerned individuals in the POTW community throughout the state and shared with us by CASA and Tri-TAC.

Chronic toxicity testing will be required of essentially all dischargers:

This will include:

- Publicly Owned Treatment Works (POTWs)
- Industrial and construction stormwater dischargers
- MS4 Phase 1 and 2 NPDES stormwater Permits
- Agricultural discharges under conditional waivers
- Costs associated with this monitoring requirement will range from \$120,000 to \$240,000 per discharge location over the life of a five-year permit cycle.

Excessive false positive error rate:

- 15% of all non-toxic samples are expected to be identified as "toxic" based on an evaluation of EPA blank data.
- Probability of failing at least one chronic toxicity test is 86% over the course of one year and more than 99.9% over the course of a five-year permit cycle even if the discharge was actually non-toxic.
- Non-toxic discharges will be perceived to be toxic, resulting in false public perception of discharge and receiving water quality, and resources wasted to attempt to find the cause of the "toxicity."

Numeric chronic toxicity limits will be required for nearly all dischargers:

- Every major POTW discharger (>1 MGD) – notwithstanding a lack of reasonable potential
- All minor POTW dischargers
- Water Boards will have the discretion to impose numeric chronic toxicity limits for all MS4, individual storm water, and agricultural dischargers under conditional waivers.
- Water Boards will also have the discretion to impose acute toxicity limits on all dischargers listed above as well.

Exceedances of numeric chronic (and acute) toxicity limits are Clean Water Act violations subject to:

- State penalties of up to \$10,000 per day or \$10.00 per gallon, and federal penalties of up to \$37,500 per day per violation.
- Third party lawsuit and attorney fee liability, particularly if regulators decide to take no enforcement actions.
- Additional costs associated with required accelerated testing of \$108,000 to \$216,000 over a permit cycle.
- Additional costs associated with required Toxicity Identification Evaluation (TIE) testing ranges from \$10,000 to over \$100,000.
- Costs associated with conducting Toxicity Reduction Evaluations (TREs) can be high and long lasting.
- Costs associated with unnecessary treatment upgrades in response to false positive toxicity exceedances can be astronomical.
- None of the costs associated with coming into compliance in instances of actual toxicity were considered since these costs were determined to be “too speculative.”

Essentially all waters of the State will be identified as impaired for toxicity:

- Clean Water Act section 303(d) impairment designation will occur if two or more receiving water samples are identified as toxic.
- An 89% chance of 303(d) impairment designation exists even for a completely non-toxic receiving water.
- Once a waterbody is listed, the false positive error rate will make it practically impossible to statistically demonstrate that a waterbody will meet 303(d) delisting requirements, even for a completely non-toxic receiving water.
- TMDLs will therefore be required for all waterbodies without any way to demonstrate that the waterbody will be attaining beneficial uses.
- Dischargers who have the TMDL allocations incorporated into NPDES permits will be at risk for permit violations for non-toxic conditions.
- Erroneous 303(d) listings will divert State resources from development of TMDLs with legitimate impairments.

LEGAL AND POLICY ISSUES ASSOCIATED WITH THE PROPOSED SWRCB WHOLE EFFLUENT TOXICITY (WET) POLICY.

1. The Proposed Policy and associated analytical tools were not promulgated or established through formal rule making

2. The Staff Report states that the “numeric objectives included in the Policy are simply a concise statement of several elements in U.S. EPA’s TST document.” (See Staff Report at 65.)
3. The TST procedures were adopted from recent EPA *guidance* document that was never released for public comment.
4. The proposed Policy’s statistical procedures are not contained in the formally adopted 40 CFR part 136 methods.
5. This Policy likely represents “underground rulemaking.”

The Policy is Unnecessarily Stringent:

- There is **no evidence** that these objectives and effluent limits are necessary. Every instance setting forth findings regarding toxicity and effects of the same is qualified with “may be,” “might be,” or “could be.”
- There are no concrete examples provided, only conclusory statements that “the potential for ecological harm would likely increase” without the Policy (see Staff Report at 45).

The compliance schedule provisions in the proposed Policy are inappropriately restrictive:

- Essentially, if a discharger currently monitors for toxicity, that discharger may not be allowed time to come into compliance with new more stringent limitations. Further, even where a compliance schedule is authorized, the duration of the compliance schedule may not exceed two years. Current State Water Board policy allows up to 10 years to comply with non-CTR constituents.
- The statewide numeric objectives would not supersede existing narrative objectives in the individual basin plans, thereby allowing regional water boards to “translate” the narratives into additional or different limits.

The Proposed Policy conflicts with and is more stringent than federal law:

- The Policy is more stringent than required by federal law since it **automatically assumes reasonable potential** for toxicity for large (more than 1 mgd) POTWs. This is contrary to the federal rule (40 C.F.R. §122.44(d)(1)(iv)), which only prescribes an effluent limit for toxicity where there is “the reasonable potential to cause, or contribute to an in-stream excursion above the numeric criterion for whole effluent toxicity.”

- The Policy is more stringent than required by federal law since it **requires numeric effluent limits** when not required by federal or state law. (See *Communities for a Better Environment (CBE) v. State Board/Tesoro*, 109 Cal.App.4th 1089, 1103–07 (2003); State Board Order No. WQ 91-03, 1991 WL 135460, at 12; 40 C.F.R. §122.44(k).
- The Policy is more stringent than required by federal law since it **requires maximum daily effluent limitations** not required under 40 C.F.R. §122.45(d)(2). The Policy attempts to argue that longer term limits would be “impractical,” which is not the regulatory standard, and the arguments are not supported with adequate findings and evidence. Moreover, the Policy’s Staff Report actually contradicts this by including an alternative for longer term average limits (see Staff Report at 54 (showing monthly and weekly average limits for POTWs)).
- The Policy is more stringent than required by federal law because it will result in more frequent determinations of effluent as toxic than use of the procedures currently required under federal law for toxicity testing.
- All of the more stringent than federal law requirements become **unfunded state mandates**.

The Proposed Policy Places Greater Importance on Ease of Enforcement than Water Quality Protection:

- The main difference between the policy and the current regulatory approach is that now, identified instances of toxicity must proceed to TIE/TRE or the discharger is subject to enforcement. Under the proposed Policy, **identified instances of toxicity—including false positives-- will constitute violations subject to administrative and civil enforcement.**
- The current approach, where effluent limits are prescribed for specific toxicants identified as causing the failures, will result in greater water quality improvement than will the proposed Policy. The proposed Policy merely makes test failures enforceable without changing anything in the effluent or in the environment. This not only diverts resources from the identification and reduction of the toxicity, but penalizes dischargers “genuinely attempting to

reduce toxicity through an aggressive TRE process” (see Staff Report at 44).

- The proposed Policy imposes two different ways to “fail” a test (test result or percent effect), thereby increasing the likelihood of failure. Failures constitute both “an exceedance of an effluent limitation” and “an excursion above the objectives,” thereby causing **two permit violations for each test failure**, by definition.

The Policy’s CEQA Checklist is Inaccurate:

- The checklist finds “no impact” from the construction of new wastewater or stormwater treatment facilities, which is inaccurate. (See Staff Report at 78.)
- The SAIC economic analysis states that reverse osmosis or other control technologies may be required for some pollutants causing toxicity (see SAIC Economic Analysis at 5-7.) Thus, the “no impact” selection was misplaced. Further, an analysis of the costs of these treatment technologies was never undertaken because the treatment needed is “highly site-specific.”

The Water Code Section 13241 and Economic Analyses are Inadequate:

- The Water Code section 13241 analysis is inadequate, without any citations to facts or evidence to support the conclusions. (see Staff Report at 63-64).
- The Economic Analysis done by SAIC is inaccurate, as it was done prior to the most recent modifications to the proposed Policy and is based on data from before 2008. Moreover, the costs considered are only for monitoring, not for compliance/treatment, enforcement, or citizen suit exposure. All of these costs need to be considered as they are all above the current baseline condition (except for TRE activities that are currently required).

SCAP MEMBER ACHIEVEMENTS

EMWD Recognized as an Industry Leader by European Agency

Perris, CA (October 5, 2010) — Citing EMWD’s proactive approach to water conservation and water supply development, experts from BRGM, a leading public institution in France which supports the sustainable management of natural resources, visited with EMWD staff last week to gather information related to developing sustainable water supplies. BRGM is similar to the United States Geological Survey (USGS).

Population growth and climate change in France is expected to lead to significant increases in water demand by 2030, prompting BRGM to seek the expertise of industry leaders in California that have implemented solutions toward achieving sustainable water utilities. Jean-Daniel Rinaudo, Ph.D., an economist and the Head of Water Economics Cell in the Water Division of BRGM led the roundtable discussion and was particularly interested in EMWD’s expertise in water demand forecasting, pricing policies,

and strategies for dealing with decreasing water supplies.

BRGM experts also met with researchers from University of California, Davis; University of California, Berkeley; University of California, Los Angeles; and University of California, Riverside as well as policy analysts at the Public Policy Institute of California and the Pacific Institute. Other water agencies recognized by BRGM include the Metropolitan Water District of Southern California and the Orange County Water District.

EMWD is the freshwater, wastewater service and recycled water provider to a 542-square mile area from Moreno Valley southward along the I-215 corridor to Temecula and eastward to Hemet and San Jacinto. Approximately 699,000 people live and work in this area. In addition to its own water customers, EMWD supplements water to eight local water agencies and municipalities that have their own water departments. EMWD operates four water reclamation facilities and treats some 46 million gallons of wastewater daily. More information can be found at EMWD’s website www.emwd.org.

Non Sequitir:

Politicians are like diapers. They both need changing regularly and for the same reason.
 - Author Unknown.....

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