



SOUTHERN CALIFORNIA ALLIANCE OF
PUBLICLY OWNED TREATMENT WORKS

MONTHLY UPDATE

July 2008

A Message from the Executive Director...

It's that time of year again when we have the opportunity to celebrate our country's independence and our God given freedom that we have all come to enjoy and more importantly to expect. For the past several years, I have always included in the newsletter a few interesting anecdotes concerning the 4th of July and our nation's history. This year, however, I ask your indulgence in reminiscing on another subject. This past month my dad passed away and it brought to mind a wide range of recollections from earlier times.

During this ordeal, I became acutely aware that many of you have already gone through the process of losing a parent or may be going through a similar experience as we speak. Unintentionally, I learned a lot about the state of health care in this country, including the administrative processes involved with assisted living, skilled nursing care, and hospice care. While it appears that there is tremendous room for improvement in all aspects of these services, I was encouraged by the dedication and caring that the individuals within those professions exhibited. I suppose it is a product of our generation and our society that life expectancies are longer now; however, sometimes we forget that our bodies are still not made to last hundreds of years. My dad was two months shy of 97 when he died and if it wasn't for some of those important body parts like his heart, I imagine he could have gone on for a lot longer.

Although, he would probably never have admitted it, my dad was a true environmentalist or maybe more appropriately he was a conservationist. Looking back at those times in the late fifties and sixties, I can remember him making me dig huge holes in the backyard for burying our trash. Then he would add soil, sawdust and cow manure to it and call it a compost pile. I actually was embarrassed by this and more than once thought he was a crack pot. But the fruit trees and vegetables that he later planted over these areas sure grew well and produced some of the best tasting fruit ever. He used barrels to collect rain water from the house gutters and then filled gallon glass jugs that he placed all over the yard to later water the plants with. He would tell me that the plants liked the rain water, something about having to do with purity. Oh, did I mention he also made homemade wine from the grapes he would buy every year from Ferrara's winery in Olde Escondido. To this day, I believe that glass of wine he drank every night before going to bed contributed to his long life. As inventive as he was, I thought he really lost it when he disconnected the drain lines from the bath tub and laundry and re-plumbed them to carry the grey water to our rows of boysenberries that he sold during the summer months to

Upcoming Meetings

Air Quality Committee Meeting – Thursday, July 10th, 10 am – 12 noon, at LACSD.

Biosolids Committee Meeting – Thursday, July 17th, 9 am – 12 noon, at Encina Wastewater Authority. Includes a tour of the Encina WWA Biosolids Handling Facilities.

Collection Systems Committee Meeting – Wednesday, July 23rd, 10 am – 2 pm, at Vallecitos Water District.

supplement his meager income. For more than 15 years, people came from all over town to buy the berries by the crate and swore that they were the biggest, juiciest berries they had ever tasted. I guess what I resented the most at the time were the years of hard labor spent going with him to various demolition sites in the area and loading broken pieces of concrete roadway into the back of our pickup truck. Then later after unloading all of the pieces, I would have to help him build retaining walls throughout the yard. We had more walls and terraces in our yard than, as he liked to say, "you could shake a stick at." What I didn't know or appreciate at the time was this is what is now referred to as quality time. My father was no dummy, even though he never had much of an education, as his parents emigrated from Italy and put him to work at an early age, his 24 years in the Navy served him well. He flew the American flag every day that I can remember and never let any of his children or his 10 grandchildren and 10 great grandchildren forget the price of freedom. For that I salute him and thank him for instilling those values in me.

On another note, the SCAP Board of Directors met recently to adopt a new budget for Fiscal Year 2008/09. While there are no significant changes from last year's budget, I have received permission from the Board to relocate the SCAP office from San Juan Capistrano to Encinitas in a cost savings move. This transition will take place over the next few months and we will send out notifications to the membership well in advance. One casualty of the move, however, is SCAP's executive administrator, Kris Whisenhunt, who will not be relocating. Kris has served SCAP for the last 12 years and has done an outstanding job, as everyone knows who has worked with her. So please join with me over the next few months in thanking Kris and wishing her well in her future endeavors.

Please note that in lieu of the usual committee reports, this month's reports consists of the mid-year committee recap that was presented to the SCAP Board of Directors at their June meeting.

Transitionally Yours,
John Pastore

Air Quality by Chair Daniel McGivney

SCAQMD Rules 1146 and 1146.1 (by Tom C. Fang)

South Coast AQMD released a Draft Environmental Assessment (EA) for PAR 1146 on June 12, 2008 in accordance with CEQA requirements. The document contained a newly revised version of PAR 1146, forward dated to July 11, 2008. The latest rule language retains most of the previously proposed changes, including dropping NOx limit to 9 ppm for new and existing natural gas boilers rated 5-75 MMBtu/hr heat input, and 15 ppm NOx for digester gas units (25 for landfill gas). A new provision for atmospheric units (natural gas boilers at 10 MMBtu/hr or less with non-forced air) allows these units to operate at 12 ppm. Compliance dates vary from

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| <p><u>Committee Chair Contact Info</u></p> <p>Air Quality Chair: Dan McGivney – dmcgivney@emwd.org</p> <p>Biosolids Chair: Mike Sullivan – msullivan@lacsdsd.org</p> <p>Collection Systems Chair: Ralph Palomares – RPalomares@etwd.com</p> <p>Water Issues Chair: Gus Dembegiotes – Gus.Dembegiotes@lacity.org</p> |
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January 2010 to 2015. Smaller existing boilers permitted at 12 ppm NO_x do not need to meet 9 ppm until a burner replacement. Starting July 1, 2009, portable analyzer self-testing will be required once every month or 750 operating hours, with noncompliant emissions not considered a violation if corrected within 72 hours. In contrast to the current rule and previous proposals, PAR 1146 is now making annual source testing into a triennial requirement for units 10 MMBtu/hr or above, and every 5 years for units rated from 5 to 10 MMBtu/hr.

There are no recent developments on PAR 1146.1 for boilers 2-5 MMBtu/hr. The PAR 1146 Draft EA is open for comments until July 29, 2008. SCAP members may direct any questions or comments to the Air Quality Committee via the SCAP office. Latest schedule is for the Set Hearing on July 11, 2008 (no board meeting in August), and Board Hearing on Sept. 5, 2008. Another task force meeting is planned for July 10, 2008.

Mid-Year Committee Recap

The Air Quality Committee's agenda since January has been dominated by climate change issues, some of which are:

- a) working in the California Wastewater Climate Change Group (CWCCG), forty agencies strong so far, to develop an emissions reporting protocol, emphasizing methane and nitrous oxide;
- b) participation in the development of a Local Government Operations Protocol with the California Climate Action Registry as part of a wastewater subgroup;
- c) attending numerous meetings in Sacramento all focusing on the eventual release of the AB 32 Scoping Plan, the master plan for climate change for California, which will dictate which source categories will be taxed for carbon emissions, directly regulated or regulated under a cap and trade program;
- d) engaging EPA in Washington D.C. in the federal mandatory reporting rule and refinement of emissions inventories for POTWs;
- e) catalyzing NACWA to pursue discussions with Congressional staff to channel funding for adaptation in the water sector, in the high profile climate change bills;
- f) working with the Office of Water to re-prioritize their Climate Change Strategy to focus on watersheds and adaptation;
- g) working with the SCAQMD to assure that there is no duplication in regulatory programs;
- h) working with WERF to get critical GHG research accomplished;
- i) working in industry coalitions to minimize negative impacts of CEQA GHG threshold deliberations going on around the state.

In addition, much time continues to be spent by the Committee on the CARB vehicle and portable equipment rules resulting from the statewide Diesel air toxics control plan. Local rules, such as SCAQMD's Rule 1110.2, passed after three years of effort, continues to dominate the time of several committee members. Other SCAQMD rules, such as those governing boilers (R1146, R1146.1), are also being actively negotiated. Miscellaneous issues like digester gas fueled fuel cells, changing aberrant VOC permit conditions on scrubbers, reigning in excessive interpretation by SCAQMD of Title V conditions, etc., fill in whatever time remains in the Committee's schedule.

Biosolids by Chair Mike Sullivan**Mid Year Recap**

The Biosolids Committee continues to diligently work on reviewing and responding to legislative bills, regulations, and local ordinances that may impact current and future biosolids management options. The Committee also continues to provide updates to its members on a number of local biosolids management facilities that will come online in 2008 and 2009.

Legislative Bills and Regulations:

In the first half of 2008, the Biosolids Committee continued to track several legislative bills and regulations related to biosolids:

AB 1207 (Smyth) introduced by Assembly Member Cameron Smyth would provide uniform standards for the land application of biosolids in California under the jurisdiction of the Integrated Waste Management Board. The bill also would have prohibited local jurisdictions from adopting or enforcing local ordinances that are inconsistent with state regulations. In January 2008, the bill was amended by the author to remove the preemption language and clarify several sections. The bill was then considered by the Assembly Environmental Safety and Toxic Material committee and passed with a unanimous vote. The bill was re-referred back to the Natural Resource Committee and set for hearing, where the bill author was asked to consider additional amendments to the bill language. After further discussion with the bill sponsor and author, the Natural Resources Committee hearing was canceled, and it was decided that the bill would not be considered.

Green Waste Composting Rule 4566 (San Joaquin Valley Air Pollution Control District) was entered into the rulemaking process in early 2008, and proposed to set standards for facilities that landfill, process, compost, or dispose of plant or plant-derived material (including food waste and wood waste). The primary objective stated for Rule 4566 is to reduce Volatile Organic Compound (VOC) emissions from all sources that commercially store, process, or compost green waste material. Public workshops were held in January and April, and a technical workgroup was formed which met for the first time in May. The first draft of the rule is available on the SJVAPCD website (www.valleyair.org). Three additional public workshops, additional technical workgroup meetings, and a cost effectiveness analysis and socioeconomic analysis workshop are planned for later this upcoming year.

Imperial County's Measure X

(<http://www.co.imperial.ca.us/Election/PdfDocuments/MeasureX.pdf>), also referred to as the "Health and Safety First Ordinance of 2007," passed with more than a 66% vote on February 5, 2008. The measure amends the Imperial County Codified Ordinances by making it unlawful to import sewage sludge into Imperial County with the intention of disposing of it therein. According to the proposed ordinance, "Disposal" includes storage, incineration, chemically converted (sic), processing, land application, or dumping on private or public ground or facilities within Imperial County. For more information, please visit

<http://www.ivblogz.com/quicknews/2008/02/measure-x-passe.html>.

Senator Boxer Letter

In response to the October 3, 2007 Senator Barbara Boxer (CA-Democrat) letter that raised issues of concern over the inclusion of biosolids in a recent EPA revision of the Federal Procurement guidelines and EPA's ongoing activities with regards to biosolids, both CASA and NACWA have been holding conference calls with the Senator's staff and sending letters to the Senator. Representatives from NACWA and CASA met with Democratic and Republican staff members of the Senate Environment and Public Works (EPW) Committee in early May. Sen. Boxer, chair of the EPW Committee, signaled her intention to conduct an oversight hearing by the end of the summer regarding issues related to the land application of biosolids after the recent Associated Press stories (see below). The Senator's staff was receptive to the information that was provided, regarding the safety of land application and the effectiveness of the U.S. Environmental Protection Agency's Part 503 regulations. The staff was also briefed on the importance of land application to the nation's clean water agencies, and the critical role it plays in California. As a follow up to the meeting in mid-May, CASA sent documents to the EPW Committee that provided a summary of the issues related to the Georgia case and the Baltimore compost study, information on municipal pretreatment programs and waste reduction efforts, and a summary of biosolids management practices utilized in California.

Associated Press Story on the Land Application of Biosolids

The Associated Press (AP) released two articles about the land application of biosolids on farmland and an application of biosolids derived compost on urban soils with high lead concentrations. The first article was released on March 6, 2008, which described an Augusta, Georgia farmer's allegations that land application of biosolids during the 1980s had caused cattle death and soil contamination. The farmer has filed several lawsuits since the 1990s against the city of Augusta, USDA, USEPA, and other entities, and a recent court decision ordered the USDA to compensate the farmer for loss of crop production. CASA along with other entities have encouraged the USDA to appeal the court decision, but the USDA decided not to appeal in April.

The second article was released on April 13, 2008, which focused on a 2005 study funded by the Housing and Urban Development Department (HUD) in Baltimore, Md., involving the application of a biosolids derived compost on urban soils with high lead concentrations to reduce the risk of soil lead exposure. HUD has since released a fact sheet in an effort to correct the recent press reports (<http://www.hud.gov/offices/lead/Baltimore.cfm>). AP removed the original reporter due to a lack of satisfaction with the original story, and has hired a new reporter to interview representatives of the study.

Committee Meetings:

The Biosolids Committee met with several representatives of biosolids management companies at the quarterly meeting on April 8th in the City of Riverside. The topics for the meeting were land application capacity issues, regulatory updates, information on existing facilities, status reports on new facilities and technology, and a roundtable discussion. The next committee meeting is scheduled for July 17th, at the Encina Wastewater Authority and will include a tour of the Encina WWA biosolids handling facilities.

Updates on Regional Biosolids Projects:

The committee continues to provide updates to SCAP members on the status of the many biosolids projects being implemented locally, many of them by SCAP member agencies or associate members. Some of these projects are listed below:

- **Nursery Products LLC's** certification of the Environmental Impact Report for the proposed High Desert Composting Facility located west of Barstow was put on hold by Barstow Superior Court Judge John Vander Feer due to concerns about the economic analysis of enclosure of the composting facility. The Judge also found that the environmental review did not identify the water source to be used for the project. Nursery Products LLC indicated that although this ruling may delay the project, the development of the project will proceed.
- **EnerTech Environmental** has announced that the construction of the Rialto Regional Biosolids Processing Facility is 80% complete. EnerTech will begin mechanical checkout and testing of the Biosolids Receiving, Storage, and Transfer system this summer, and then will begin the SlurryCarb™ mechanical checkout in the fall.
- **The City of Los Angeles** received the NACWA National Environmental Achievement Award for the "Biosolids (Bio-slurry) Injection – Terminal Island Renewable Energy Project (TIRE)." The facility, which broke ground in April, is designed to utilize deep well injection technology for biosolids management. The concept is that the organic material will break down into mainly carbon dioxide, which will remain trapped in the formation, and methane, which can be extracted and used as a renewable fuel.

Collection Systems

 by Chair Ralph Palomares

Mid Year Recap

On January 23, 2008, the SCAP Collection Systems Committee held its first quarterly Collection Systems meeting in Garden Grove, CA where it was attended by approximately forty members including a few new guests. A few of the topics of discussion were the flushable wipes that are giving many sanitation agencies problems with ragging up the pumps at our wastewater lift stations and treatment plants. SCAP has drafted a work plan to address this continuing problem and has circulated it to Tri-TAC and the Summit Partners for comments. SCAP has also contacted the SWRCB's Division of Financial Assistance to discuss funding opportunities from the Clean Water Abatement Fund and Supplemental Environment Projects Funds. The private sewer lateral programs from various agencies throughout the state were discussed and it appears roughly half of the sanitation agencies within SCAP have some type of program in place. Another issue discussed at the meeting was the disposal of fats, oils and grease (FOG), as it seems that some of the waste management companies don't want it in their vehicles that transport daily refuse. The Kohler toilet commercial that has been seen on local television was a major concern to SCAP members as it seems that these commercials portray toilets that can eat anything flushed down them. Our fear is that when children see this commercial it will lead to problems for the homeowners; so SCAP, along with the other Summit Partners, drafted a letter and sent it to the Kohler Corporation. Kohler later responded with a letter that said they will continue to show this commercial as it means no harm to the public

sewer systems of America and was intended more for an upscale audience. Legislation updates on AB 800, S2080 and HR 2452 were also discussed, as was the outreach to the local and state California Water Boards.

Local CCTV sewer video programs were discussed and it became apparent that very few agencies go back and actually look at their sewer recordings to address any infrastructure problems that may exist in their wastewater collection systems.

A request was made to include a presentation of some type on the latest technology out there at each SCAP Collection Systems Committee meeting regarding sewers and equipment that may help us in doing our daily jobs. It was agreed upon to have a different vendor make a brief presentation at our future meetings. This meeting was very central in location to the SCAP members and I would like to thank the City of Garden Grove and Mr. Brent Hayes for letting us use their wonderful facilities.

Our second quarterly SCAP Collection Systems meeting was held on April 10, 2008 at the Goleta Sanitary District in the beautiful city of Goleta, and I would like to thank Kamil Azoury for letting SCAP use their facilities for our meeting. For the benefit of our northern members who may not have had the opportunity to attend our previous meeting, we again discussed the disposable flushable wipes problem, the Kohler toilet, the private sewer lateral programs, the FOG issues, and the problem of calcium in the sewer lines that seems to be affecting all of our agencies across the state. It appears that there is no known cure for removing this nuisance that continues to cause us sewer overflows. It was mentioned that there is a professor up at UC Berkley in Northern California, who is working on a solution along with the NCPI and it is my hope they can come up with a way to remove the calcium from the walls of clay sewer lines without destroying the pipe.

A possible SCAP fieldtrip was discussed as a future event or possibly a SCAP training seminar to be held at some time in the near future, regarding how to start a lateral maintenance or CCTV program. A presentation was made showing how the SCAP website now has a lot of information regarding issues that affect its members and how new information will continue to be added to this website. Again, I would like to thank the Goleta Sanitary District for the use of their facilities and commend the SCAP staff for a job well done.

In an effort to make the committee meetings more accessible to the membership, the next meeting scheduled for July 23, 2008 will be held in San Marcos, CA at the Vallecitos Water District. It is the Collection Systems Committee's intention to hold one meeting a year in the Ventura/Santa Barbara area, one in the San Diego/Riverside area, and two in the Los Angeles/Orange County area.

Water Issues Committee by Chair Gus Dembegiotes

Mid Year Recap

First Quarter Water Issues Committee

On January 22nd, the Water Issues Committee held its first meeting at the Inland Empire Utilities Agency (IEUA) to discuss Water Recycling and emerging compounds of interest. The

first presentation was titled, "Chino Basin Recycled Water Groundwater Recharge: Program Initiative and Monitoring for Emerging Compounds," and was presented by Andy Campbell, IEUA Groundwater Coordinator, and Nel Groenveld, IEUA Laboratory Manager. The presentation provided data on the effectiveness of Soil Aquifer Treatment on removing Total Organic Carbon and other emerging constituents. The second presentation was titled, "West Basin Barrier Recharge Project" and was presented by Uzi Daniels, Senior Environmental Quality Specialist for the West Basin Municipal Water District. The presentation provided an update on the District's expanded West Basin Barrier Recharge project and its use of MFRO and its advanced disinfection using UV and hydrogen peroxide. The third presentation was titled, "Water Replenishment District (WRD): Recycled Water Recharge Regulation Update and On Going Monitoring Efforts" and was presented by Hoover Ng, WRD Water Quality Program Manager. The presentation provided an update on several of WRD's recharge projects and provided a perspective on future recycled water recharge regulations. The final speaker was Jonathan Bishop, the State Water Resources Control Board's (State Water Board's) Chief Deputy Director, who provided a status on the forthcoming revision of the State's Proposed Water Recycling Policy. Mr. Bishop stated the revised policy was due to be heard at a February hearing, but will be delayed until the Board's March hearing.

Second Quarter Water Issues Committee

On March 20th, the Water Issues Committee held its second quarterly meeting at the Inland Empire Utilities Agency. Susan Paulson of Flow Science gave a presentation on the recently adopted State Policy regarding Sediment Quality Objectives, Part 1, For Enclosed Bays and Estuaries. She discussed the requirements of the new policy and how they would be implemented. Mary Jane Foley provided an update on the Statewide Water Recycling Policy that was considered by the State Water Resources Control Board (State Water Board) at its hearing on March 18th. The State Water Board granted the request of a stakeholder group to work on drafting an alternative policy and return within 90 days. Sharon Green of LACSD updated the Committee attendees on the status of the Water Quality Enforcement Policy. Sharon also provided an update on the Statewide Compliance Schedule Policy, which was considered at the March 18th hearing, and noted that the draft policy was not adopted and that staff was directed to consider extending the length of the proposed schedule from 5 to 10 years. Sharon also provided updates on several legislative bills at the State Legislature. AB 2986 (Leno) would provide letter grades to every collection system and treatment plant in California as well as posting of key documents. AB 2270 (Leno) would deal with salinity management and water softeners. SB 1391 sponsored by MWD is a spot bill that will deal with water recycling.

Third Quarter Water Issues Committee

On June 5th, the Water Issues Committee held its third quarterly meeting at the Inland Empire Utilities Agency. Heather Collins and Kurt Souza of the California Department of Public Health presented the State's Draft Criteria for Groundwater Recharge with Reclaimed Water and discussed emerging constituents of concern. Heather and Kurt provided information regarding emerging constituents and treatment options and encouraged comments on the draft regulations for groundwater recharge that will be released for public comment. Jim Colston of the Orange County Sanitation District and the chair of Tri-TAC presented information on the statewide "No Drugs Down the Drain" campaign. He informed attendees on the statewide

program that will take place from October 4th through the 11th and directed everyone to the campaign's website at "Nodrugdownthedrain.org." Attendees were also provided updates on the State's Stakeholder Process for developing a Recycled Water Policy and on the State's Statewide General Permit for Irrigation with Recycled Water.

Statewide Water Recycling Policy

The Water Issues Committee has been following the Stakeholders Recycled Water Policy process. SCAP sent a letter to the State Water Board on March 10th urging the State Board not to adopt its staff's Water Recycling Policy. As a result of SCAP's and other association letters, the State Board at its March 18th hearing did not adopt the staff's draft policy and instead directed that a stakeholders group be formed to formulate a draft policy that would encourage the use of recycled water and protect water quality. The stakeholders group consists of representatives from WateReuse, ACWA, CASA, Heal the Bay, Coastkeeper, and the Planning and Conservation League. The State Water Board has given the stakeholders group 90 days to develop a draft policy. The stakeholders' schedule calls for the submittal of a draft policy to the State Water Board at its July 1st Board meeting. The Water Issues Committee will continue to monitor the process and participate in the public comment process that will follow the submittal of the stakeholders draft policy. SCAP members and others have in the past provided oral testimony to the State Board members in support of developing a statewide policy that would encourage the use of recycled water for irrigation and other purposes.

Proposed Statewide General Permit for Landscape Irrigation Uses of Recycled Water

The Water Issues Committee is following the State Water Board's process for developing a statewide permit. The State Water Board will be holding a Workshop/CEQA Scoping meeting on June 18th in Sacramento to seek public input regarding the scope and content of a statewide general permit for landscape irrigation uses of recycled water and its associated environmental document. The passage of AB 1481 (De LaTorre) enacted a new law, California Water Code section 13552.5, which requires the State Water Board to adopt the General Permit by July 31, 2009. The new law would require uniform interpretation of state standards to ensure the safe, reliable use of recycled water for landscape irrigation uses, consistent with state and federal water quality law and expedite permitting. The Water Issues Committee will participate in the development process to ensure that the draft permit meets the needs of SCAP's membership.

Water Quality Enforcement Policy

The Water Issues Committee has followed closely the State Water Board's development of its proposed Water Quality Enforcement Policy. In a letter to the State Water Board dated February 7th, SCAP joined with the California Association of Sanitation Agencies, Tri-TAC, the Bay Area Clean Water Agencies, the California Water Environment Association, and the Central Valley Clean Water Association to provide comments on the proposed revisions to the Water Quality Enforcement Policy. While the joint letter agreed with the intent of the policy, it also provided comments to strengthen the policy, especially the use of Supplemental Environmental Projects. At the March Water Issues Committee meeting, Sharon Green of LACSD updated the Committee attendees on the status of the Water Quality Enforcement Policy and noted that State Water Board members questioned the Policy's new requirements on Supplemental

Environmental Projects. She further stated that a new draft of the policy will be considered at a later date.

Wastewater Systems AB 2986 (Leno)

SCAP submitted an oppose letter in May regarding AB 2986 (Leno) that would provide letter grades for wastewater systems and would require flow metering of satellite systems when a treatment plant has experienced a peaking factor that equals or exceeds a designation of 7 and when peak weather flows contribute to a discharge violation or a bypass of secondary treatment due to a wet weather event. This bill was reported on at the March Water Issues Committee meeting. SCAP joined CASA in opposing the bill stating that it supported Leno's goal to reduce sanitary sewer overflows but believed the bill as written would not further that goal and have unintended consequences.

Water Softeners AB 2270 (Laird Feurer)

SCAP joined CASA, ACWA and other local wastewater agencies in supporting WateReuse's AB 2270 (Laird Feurer). This bill would support meeting the state's goals for recycled water use by enhancing reporting and simplifying the procedures local agencies need to follow in order to eliminate self-regenerating water softeners from their service areas. This bill was also reported at the March Water Issues Committee meeting.

The Future

The Water Issues Committee continues to actively monitor and work on water policy and regulatory issues affecting member agencies. The Water Issues Committee is planning to dedicate a major portion of its next meeting in September to a discussion of members' concerns regarding the State's CIWQS program.

The Water Issues Committee will also be monitoring developing regulatory issues in the ensuing months such as proposed amendments to the State's Water Quality Enforcement Policy, Recycling Policy, Statewide Permits, Water Quality Improvement Initiative, and Constituents of Emerging Concern.

The Water Issues Committee will also be monitoring developing legislation such in the arena of water quality enforcement, recycling, and funding and the composition of Regional Boards.

Regulatory Affairs by Regulatory Affairs Consultant Mary Jane Foley

As the Little Hoover Commission in Sacramento continues to hold hearings on the organization and structure of the State and Regional Waterboards, the State Waterboard has taken the initiative to launch their own package of changes, entitled *The Water Quality Improvement Initiative*.

Last year, the Governor vetoed Senator's Perata bill, SB 1001/2007, but sent a long message to the Waterboard on the need for improved implementation and enforcement of water quality

laws. This year, Perata brought back a similar bill, SB 1176, on the subject of the organization of the Regional Water Boards and performance of the State and Regional Waterboards. On May 28, 2008, the State Waterboard sent Senator Perata a letter opposing SB 1176, unless amended. The amendments are part of the package of water code changes recommended in the Water Quality Improvement Initiative (WQII).

Since this State Waterboard Initiative is so far-reaching, the regulated communities and the non-profit groups are responding to the State Waterboard with their concerns and their comments for amendments. SCAP has been part of a statewide effort by the POTWs under the leadership of the Summit Group. Briefly, the Summit Group is a collaboration of the state and regional POTW organizations that meet quarterly and review major issues in order to craft a unified voice on issues that impact the water/wastewater industry.

The WQII includes approximately 16 changes to the way the Waterboards do business. SCAP has sent out the summary fact sheet, legislative language, etc. over the past couple of weeks. The Summit Group, with whom SCAP is involved, has developed a comment letter to the Chair of the Waterboard, Tam Doduc, explaining concerns and some suggested amendments.

One major concern with the Waterboard's amendments to SB1176 is the fear that these changes might end up as a trailer bill to the current budget. The entire universe of regulated parties that are affected by the Waterboards want more time and the ability for a full and fair public debate on this very far-reaching proposal. It is critically important that the Waterboard's WQII be a stand alone bill and not attached to the state budget approval.

An outline of the WQII:

- Reduces the number of members on Regional Boards from 9 to 7. Reforms 10% rule.
- Calls for the Regional Board Chairs to be selected by the governor and serve on a full-time basis
- Delegates the NPDES permitting decisions to the Regional Board Executive Officers
- Creates a new, formal process to identify and address inconsistencies (Water Quality Council)
- Requires the boards to set performance targets for water quality improvement and to report their progress to the legislature and the governor
- Expedites TMDLs by eliminating state review of regional board decision
- CEQA exemption for TMDLs
- Conforms Water Board conflict-of-interest rules with those that apply to other state officials
- Deals with new enforcement strategies
- Attempts to help small districts with mandatory minimum penalties
- Authorizes district attorneys and city attorneys of cities with large populations to seek civil liability for water quality violations
- Allows for emergency regulations to implement all of the above

Some of the immediate comments of the regulated community at large and the Summit Group Members (Partial list):

- A concern on how the ex parte communications apply to the Executive Officer (EO) if he or she is the ultimate issuing authority. To whom do you appeal? The designation to the EO would help with the 10% rule that impedes a lot of qualified candidates from serving on the Waterboards. (Limits income for persons related to an NPDES to 10% of gross income.)
- Full-time Chair: Not supported, recommend increasing per diem to Chairs for time spent on the proposed Water Quality Council
- Reduction of Water Board Size: Support if amended to not consolidate the city and county seats as the WQII is recommending
- No support for CEQA exemptions for TMDLs
- Enforcement Provisions are not supported as presented. Strict liability would be the rule, no innocent mistakes accepted
- Allowing district attorney *and* city attorney to file actions for civil penalties may cause inconsistencies in enforcement throughout the state
- Modification of mandatory minimum penalty provisions for small communities is a good thing and can be supported
- Emergency regulations for the implementation of the WQII can be problematic. Emergency regulations are subject to a very condensed timeframe for public review and comment. This is a significant revision to the Waterboard's operation and needs time and input from stakeholders affected by these changes.

We will keep you posted on how all this works out. If you want the backup material that included the proposed WQII legislative language and the fact sheet, contact the SCAP office and they will be happy to send it to you upon your request.

Help Desk

Remember, the HELP DESK is open 24/7 for members who need to discuss permitting issues and strategies to assist agencies in resolving problems with regulatory agencies. Please contact Mary Jane Foley at mfoley@scap1.org

Non Sequitur

You have to love a nation that celebrates its independence every July 4, not with a parade of guns, tanks, and soldiers who file by the White House in a show of strength and muscle, but with family picnics where kids throw Frisbees, the potato salad gets iffy, and the flies die from happiness. You may think you have overeaten, but it is patriotism.

~Erma Bombeck