



October 23, 2017

Vince Christian  
Regional Water Quality Control Board  
San Francisco Bay Region  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

VIA EMAIL: [vchristian@waterboards.ca.gov](mailto:vchristian@waterboards.ca.gov)

**Subject: Tentative Order No. R2-2017-00XX NPDES, No. CA0038628 for Central Marin Sanitation Agency, San Rafael Sanitation District, Sanitary District No. 1 of Marin County, and Sanitary District No. 2 of Marin County Marin County**

Dear Mr. Christian,

The Bay Area Clean Water Agencies (BACWA), California Association of Sanitation Agencies (CASA), and the Southern California Alliance of POTWs (SCAP), jointly referred to as the Associations, appreciate the opportunity to provide comments on Tentative Order No. R2-2017-00XX NPDES, No. CA0038628 for Central Marin Sanitation Agency (CMSA), San Rafael Sanitation District, Sanitary District No. 1 of Marin County, and Sanitary District No. 2 of Marin County Marin County (Tentative Order). With the exception of CMSA, the agencies included in the Tentative Order are referred to in this letter as the satellite collection systems.

BACWA is a joint powers agency whose members own and operate publicly-owned treatment works (POTWs) and sanitary sewer systems that collectively provide sanitary services to over 7.1 million people in the nine-county San Francisco Bay (SF Bay) Area. BACWA members are public agencies, governed by elected officials and managed by professionals who protect the environment and public health. CASA has been the leading voice for public wastewater agencies on regulatory, legislative and legal issues. CASA is an association of local agencies, engaged in advancing the recycling of wastewater into usable water, generation of renewable energy, and other valuable resources. Through these efforts CASA's members help create a clean and sustainable environment for Californians. SCAP represents over 80 public agencies providing water and wastewater service for 19 million people in seven counties of southern California. The Associations are concerned about the inclusion of the satellite collection systems in CMSA's NPDES permit.

The Associations support addressing inflow and infiltration (I/I) as the primary means to reduce blending. Compared to wastewater treatment plant upgrades and expansion, work to improve

collection systems, and to enhance repair and replacement programs, is a more sustainable means to manage wet weather flows. We appreciate that Regional Water Board staff worked with the satellite collection system agencies to develop the list of projects to reduce I/I that are included in Table 5 of the Tentative Order. However, it is more appropriate to use this list as a blueprint for collection systems improvements over the next five years, not as an enforceable provision within CMSA's NPDES permit.

The satellite collection systems are already subject to the Statewide General WDR for Sanitary Sewer Systems WQO-2006-0003 (SSS WDR), which includes provisions for controlling I/I in general. When planning the scope of the SSS WDR, the State Water Board considered, and rejected the idea of NPDES coverage for satellite collection systems. As described beginning on pg. 3 of the SSS WDR Fact Sheet, which is incorporated by reference into the Order itself:

*“Satellite sewer collection systems (i.e., systems not owned or operated by the POTW) have not been typically regulated as part of the POTW and, therefore, have not generally been subject to NPDES permit requirements.*

*Comments were received that argued every collection system leading to a POTW that is subject to an NPDES permit should also be permitted based upon the USEPA definition of POTW. Under this theory, all current POTW NPDES permits could be expanded to include all satellite sewer collection systems, or alternatively, the satellite owners and operators could be permitted separately. However, this interpretation is not widely accepted and USEPA has no official guidance to this fact.”*

While it is reasonable that collection systems be encouraged to reduce excessive I/I that results in sewer spills or other adverse environmental impacts, the NPDES permit is not an appropriate vehicle to control these actions. The satellite collection systems do not discharge to Waters of the United States, and therefore as regulated entities, should not be subject to federal jurisdiction. Moreover, including satellite agencies in NPDES permits opens them up to the potential for third party lawsuits under the Clean Water Act as well as USEPA enforcement, without providing a water quality benefit to balance this increased liability. This is particularly true given that there are other apparatuses under which they can be regulated, such as California's Porter-Cologne Water Quality Control Act, which is the route that the State Water Board ultimately selected for the SSS WDR.

The Associations urge the Regional Water Board to explore other mechanisms to regulate the satellites' activities pertaining to I/I reduction, including those already available under the SSS WDR. A more appropriate alternative would be to issue a supplemental WDR pertaining directly to the three satellite collection systems included in this Tentative Order. The WDR could include the I/I reduction tasks that are described in Table 5 of the Tentative Order without the additional federal liability.

The Tentative Order incorporates the SSS WDR by reference, which exposes the permittees to federal liability for requirements to which they are already subject, regardless of this Order. If, contrary to the Associations recommendation, the satellite collection system agencies are to be

included in the Tentative Order, the Associations recommend removing language in Section VI.C.4.c on page 13 of the Tentative Order as follows:

*“On State Water Board Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, as amended by State Water Board Order No. WQ 2013-0058-EXEC, contains requirements for operation and maintenance of collection systems and for reporting and mitigating sanitary sewer overflows. While San Rafael Sanitation District, Sanitary District No. 1 of Marin County, and Sanitary District No. 2 of Marin County must comply with both the statewide WDRs and this Order, the statewide WDRs more clearly and specifically stipulate requirements for operation and maintenance and for reporting and mitigating sanitary sewer overflows. ~~Implementing the requirements for operation and maintenance and mitigation of sanitary sewer overflows set forth in the statewide WDRs (and any subsequent order updating these requirements) shall satisfy the corresponding federal NPDES requirements specified in Attachments D and G of this Order for the collection systems. Following the reporting requirements set forth in the statewide WDRs (and any subsequent order updating these requirements) shall satisfy the NPDES reporting requirements for sanitary sewer overflows specified in Attachments D and G.~~”*

We appreciate your attention to our comments. Please do not hesitate to contact us with any questions or concerns.

Sincerely,



David R. Williams  
Executive Director, BACWA



Adam D. Link  
Director of Government Affairs, CASA



Steve Jepson,  
Executive Director, SCAP

Cc: BACWA Executive Board  
Chris Dembiczak, BACWA Permits Committee Chair  
Robert Wilson, BACWA Permits Committee Vice-Chair  
Erin Smith, BACWA Collection Systems Committee Chair

Andrew Damron, BACWA Collection Systems Committee Vice-Chair  
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