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May 04, 2012

Ms. Jeanine Townsend, Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Dear Ms. Townsend:

Subject: Comment Letter-Draft Final Policy for Siting, Design, Operation and Management of Onsite Wastewater Treatment Systems (OWTS) - Septic Systems

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide comments on the Policy, and submits this comment letter. LADWP recognizes and appreciates the efforts of the State Water Resources Control Board (State Board) to regulate the installation, operation and maintenance of Onsite Wastewater Treatment Systems (OWTS). LADWP currently operates and maintains septic systems throughout California and realizes that regulating OWTS serve to ensure that septic systems do not threaten surface water and groundwater resources.

LADWP supports the State Board's proposed risk-based tiered approach and its recognition of effective local programs and site-specific conditions. LADWP, however, has a few concerns regarding its implementation of the Policy.

1. Sections 6 - 8, p. 21 – 27

- 1 → **LADWP supports the proposed no requirement for Tier 0 OWTS;** Tier 0 OWTS, by definition, shows no sign of failing and no potential to impair beneficial uses of waterbodies. Community resources are especially limited in the current economy and the use of these resources should be prioritized for the maximum efficiency to enhance water quality in waterbodies in California. **However, the Policy is vague as to what**
- 2 → **circumstances the Regional Board will impose waste discharge requirements (WDRs) on Tier 0 OWTS. As written, the Policy would allow the Regional Board to require WDRs for Tier 0 OWTS based merely on "the opinion of the Regional Water Board". LADWP believes the Regional Board decisions to require WDRs should be quantitative in nature not merely speculative or based solely on "the opinion" of the Regional Board.**

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2 → LADWP recommends either 1) adding language that requires the Regional Board decisions for WDRs to be quantitative in nature not merely speculative based solely on “the opinion” of the Regional Board or 2) removing Section 6.2.2. . In addition, LADWP suggests that should a local agency establish any requirements through its local agency management plan for a Tier 0 OWTS, that these requirements be approved by the Regional Board through a public process that includes the OWTS owners/operators. ← 3

2. Sections 9 and 10, pp. 30 – 42

4 → The Policy does not provide a sufficient direction to the Regional Board with regards to the Tiers 2 and 3; according to the Policy, the Regional Board has authority to determine requirements for Tier 2 and Tier 3 OWTS. The Policy contains no provision that would prevent the Regional Board from imposing arbitrary and overly stringent requirements to OWTS owners. Further the Policy provides no guarantee that the implementation of the Policy will have consistency among different Regional Boards. The same concern was also stated at the State Board hearing on May 2, 2012, by multiple stakeholders. Also, at the same hearing, one of the State Board members expressed concern that it is important to balance the Policy’s site specific local approach across the different Regional Boards so that more stringent requirements are not arbitrarily required throughout the different regions. ← 5
← 6

7 → LADWP recognizes the regional differences and recommends addition of regulatory language that would require the Regional Board to solicit stakeholder participation with the local management agency to conduct and develop requirements based on a cost-effective analysis and the results of data collection (such as soil analysis, groundwater surveys, etc.). LADWP also recommends that the Policy include language that requires the approval of the local management program for Tiers 2 and 3 OWTS by the Regional Board to be a transparent public process that includes the stakeholders, such as the OWTS owners. ← 8

3. Section 9, pp. 30 – 35

9 → Tier 2 new or replacement OWTS owners with no Tier 2 local management program should be provided with alternatives other than Tier 1 requirements; the Policy requires Tier 2 OWTS to comply with Tier 1 requirements if a local agency has no management program approved. It is not reasonable to impose more stringent Tier 1 requirements to Tier 2 OWTS due to a circumstance that the owners have no control over, ie. situated in an area where a local agency has not developed a local management program. ← 10

LADWP recommends the State Board to consider an alternative other than Tier 1 requirements where a local agency management program does not exist, and provide incentives to help local agencies to establish local-specific management programs which will address local water quality issues cost-effectively.

4. Sections 9, 10, and 11, pp. 30 – 44

- 11 → OWTS should not automatically be determined as a contributor to exceedances to nitrates and pathogens detected nearby; it may be easy to point to the OWTS as the source of an exceedance when a local agency detects exceedances of nitrate or pathogens in a nearby waterbody. However, various sources could have contributed to the exceedances depending upon those located within the vicinity of the water body (e.g., dairy farms, runoff from cow grazing pastures, etc.). Further, exceedances of pathogens are determined via indicator bacteria analysis. The indicator bacteria are from warm-blooded animals including human and wildlife; they are not human-originated pathogen specific. The detected bacteria could be as likely from wild animals as from a failing OWTS. Therefore exceedances of pathogens should not be automatically associated to an OWTS without surveying potential other sources in the immediate area.
- 11 → automatically associated to an OWTS without surveying potential other sources in the immediate area.
- 12 → LADWP recommends adding language that requires local agencies to have to consider all possible sources that have the potential to contribute to exceedances and conduct an appropriate source analysis/survey before the local agencies impose any requirements on an OWTS owner. LADWP also recommends adding language to the Policy that allows OWTS owners to submit data, indicating other sources than the OWTS that have the potential to contribute to the exceedances.
- 13 → Policy that allows OWTS owners to submit data, indicating other sources than the OWTS that have the potential to contribute to the exceedances.

Thank you again for the opportunity to provide these comments. LADWP looks forward to working with State Board staff in finalizing this proposal. If additional information is required, please feel free to contact Ms. Charlynn Rachell, of the Wastewater Quality and Compliance Group at (213) 367-2976.

Sincerely,



Katherine Rubin
Manager, Wastewater Quality and Compliance Group

CR:ym
c: Ms. Charlynn Rachell