

February, 20 2007

Tam Doduc, Chair and Board
State Water Resources Control Board
1001 I Street
Sacramento, California 95814



VIA ELECTRONIC MAIL: commentletters@waterboards.ca.gov

Re: Comments on Draft State Water Board Order, "In the Matter of Own Motion Review of EBMUD Wet Weather Permit (Order No. R2-2005-0047 [NPDES No. CA0038440]) and Time Schedule Order (Order No. R2-2005-0048), SWRCB/OCC File A-1771

Dear Chair Doduc and Members of the Board:

On behalf of Butte Environmental Council, thank you for the opportunity to comment on the above-described Draft Order, which has significant statewide implications. We applaud staff's rigorous review of the EBMUD permit's and TSO's compliance with the federal Clean Water Act and state Porter-Cologne Water Quality Control Act. We agree with every element of the Draft Order, other than the Draft Order's findings and direction with respect to compliance schedules. In particular:

- Wet weather facilities and overflow structures are POTWs under the Clean Water Act (CWA);
- Wet weather facilities and overflow structures therefore must comply with the secondary treatment requirements of the CWA;
- Basin Plan limits that purport to waive the secondary treatment requirements of the CWA are illegal, must be eliminated where they exist in Basin Plans, and cannot form the basis of effluent limits in NPDES permits;
- Reasonable Potential Analyses must be conducted for discharges from wet weather facilities and overflow structures;
- Water Quality Based Effluent Limits for wet weather facilities and overflow structures must ensure compliance with CTR, NTR, and Basin Plan limits; and
- Self-monitoring programs need to be sufficiently frequent and comprehensive to assess compliance with permit limits and facility performance through fully representative data.

The Draft Order appropriately rejects the compliance schedules as applied by the San Francisco RWQCB. However, the Draft Order inappropriately endorses compliance schedules for new or more stringent limits in NPDES permits. Because compliance schedules extending beyond 1977 are inconsistent with the requirements of the CWA, we urge the State Water Board to amend the Draft Order and direct the San Francisco RWQCB to eliminate all compliance schedules from the EBMUD permit, and require issuance of TSOs for parameters for which the San Francisco RWQCB finds immediate compliance infeasible.

Approval of the Order as written, with amendments for compliance schedules, is critical to correcting an increasing pattern of permits statewide that do not meet the minimum requirements of the Clean Water Act and state law. Thank you.

Sincerely,

Barbara Vlamis
Executive Director
Butte Environmental Council