November 4, 2021

Judy Morgan, ELTAC Chair
In Care Of Jennifer McClaren
State Water Resources Control Board (State Water Board)
Environmental Laboratory Accreditation Program (ELAP)
1001 I Street
Sacramento, CA 95814

SUBJECT: ELTAC 2021 Update to State Water Board

Dear Chair Morgan,

On behalf of the California Association of Sanitation Agencies (CASA), the Association of California Water Agencies (ACWA), and the California Municipal Utilities Association (CMUA), we appreciate the opportunity to comment on the annual ELAP Technical Advisory Committee (ELTAC) update to the State Water Board. CASA represents more than 125 local public agencies engaged in the collection, treatment and recycling of wastewater and biosolids to protect public health and the environment. ACWA represents more than 460 public water agencies that collectively deliver approximately 90 percent of the water in California for domestic, agricultural, and industrial uses. CMUA represents over 50 public water agencies that deliver drinking water to 75% of Californians.

During the State Water Board’s adoption hearing for the 2021-22 ELAP fee schedule on September 22, 2021, CASA requested specific information and details be provided during your update to the State Water Board this year, to which the Board Chair responded affirmatively. For context, the last update that the State Water Board received from an ELTAC chair was in the spring of 2020 when the new regulations were adopted with significant concern from stakeholders about their costs and impacts. Last month, the State Water Board adopted an updated fee schedule for accredited labs which featured an increase of more than 13%. More specifically, the fee schedule included a 24% increase to the base fee and a 50% increase to the field of accreditation (FOA) fee for small labs with less than 11 FOAs, which is even more disconcerting given that the prior year’s fee schedule also included significant increases that were supposed to align the program with the costs of the new regulations.

In the comments last month, CASA specifically requested that your update to the Board this year – per the language from the May 2020 adopted resolution – feature a summary of the progress on “implementation and transition” of the new ELAP regulations. We would like to better understand the rationale and details behind the recent fee increases and learn whether any course correction is needed. At the recent State Water Board meeting, Chair Esquivel indicated his agreement that an ELAP update is necessary and that it should cover the items that we identified on September 22 pertaining to implementation that are provided below. Accordingly, we request that stakeholders be provided the following information as part of your update to the State Water Board, and insofar as this information may require coordination with ELAP staff, we respectfully request their support to provide you with the information needed:

- What changes in ELAP’s program required additional funding that necessitated the significant fee increases this year, and, similarly, whether these new fees add to the services provided or improve the provision of certain services offered by the program.

- We would like to hear more about efforts to reduce the backlog for on-site assessments (OSAs), as well as what the impact of COVID-19 has been on State Water Board staff performing OSAs, the role of third-party assessors (TPAs) in performing OSAs, and how many assessments are in the current backlog.
As our members are continuing to transition to the new ELAP regulations, we would appreciate hearing a report about the efforts by the State Water Board’s Drinking Water and Radiation Laboratory (DWRL) to hire four new staff (one whose dedicated full time) to support the transition to the 2016 TNI standard.

For the sake of charting the implementation and transition over the next few years to the new regulations, we would appreciate a report on general program statistics so that we can track the program’s evolution year over year. Information of interest in this regard includes:

- The current number of ELAP staff
- The number of new FOAs added by ELAP
- The number of OSAs conducted by ELAP staff, the number of assessors ELAP has available to perform OSAs, and the number of OSAs conducted by TPAs
- The number of enforcement actions since the regulations were adopted
- The number of mentor activities for labs and information about their transition support
- The number of newly accredited labs (both through TNI reciprocity and ELAP certification)
- The number of labs that have dropped accreditation (from what we have gathered, it’s almost 50 labs, or between 15 and 20% of accredited governmental labs, which would be a dramatic reduction in the first year if those numbers are accurate; see list attached), and
- The number of labs that narrowed the scope of their accreditation by dropping tests or FOAs.

We appreciate your consideration of this request for additional information and inclusion of these elements in your update to the State Water Board. We understand you may not be able to cover all of this in your presentation to the Board, but we would still appreciate direct responses to these questions via correspondence or other means. If there are any questions about these comments, please do not hesitate to contact us at (916) 446-0388 or jvoskuhl@casaweb.org, (916) 441-4545 or nickb@acwa.com, and (916) 326-5806 or aabergel@cmua.org.

Thank you,

Jared Voskuhl
CASA Manager of Regulatory Affairs

Nicholas Blair
ACWA Regulatory Advocate

Andrea Abergel
CMUA Senior Regulatory Advocate

Attached: Lab Accreditation Change Tracker

Cc: Ms. Christine Sotelo, ELAP Chief
ELTAC Members
Mr. Darrin Polhemus, Division of Drinking Water, Deputy Director
Mr. Dave Eggerton, Executive Director, Association of California Water Agencies
Ms. Cindy Tuck, Deputy Executive Director for Government Relations, Association of California Water Agencies