



***East Bay Municipal Utility District***

# **MAÑANA: THE STORY OF THE DRAFT BLENDING POLICY**

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**New Administration: Same Wet Weather Challenges  
2009 NACWA Summer Conference**



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# Presentation Outline

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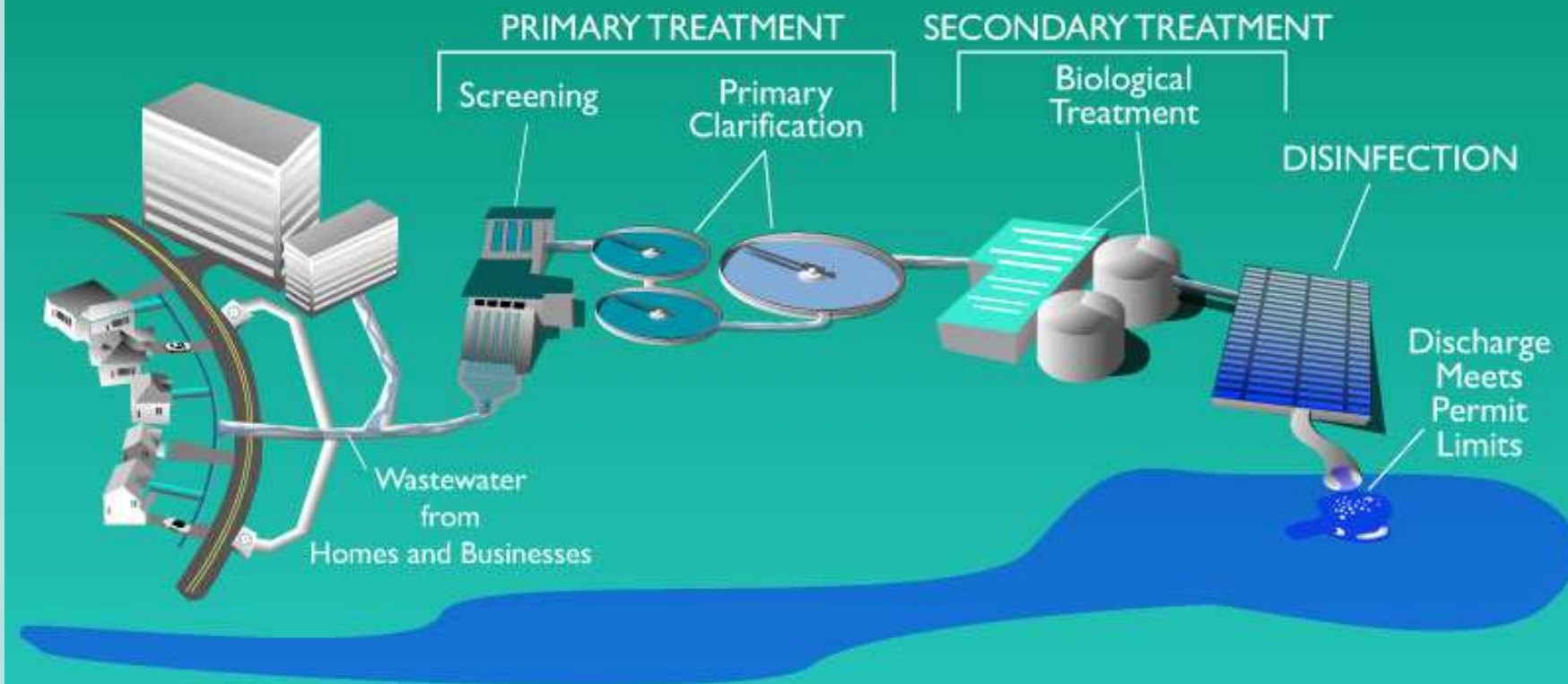
- 💧 **What is Blending?**
- 💧 **Why the Fuss?**
- 💧 **EPA's Attempts to Address Blending**
- 💧 **The Current Situation**
- 💧 **Next Steps**

# What is Blending?

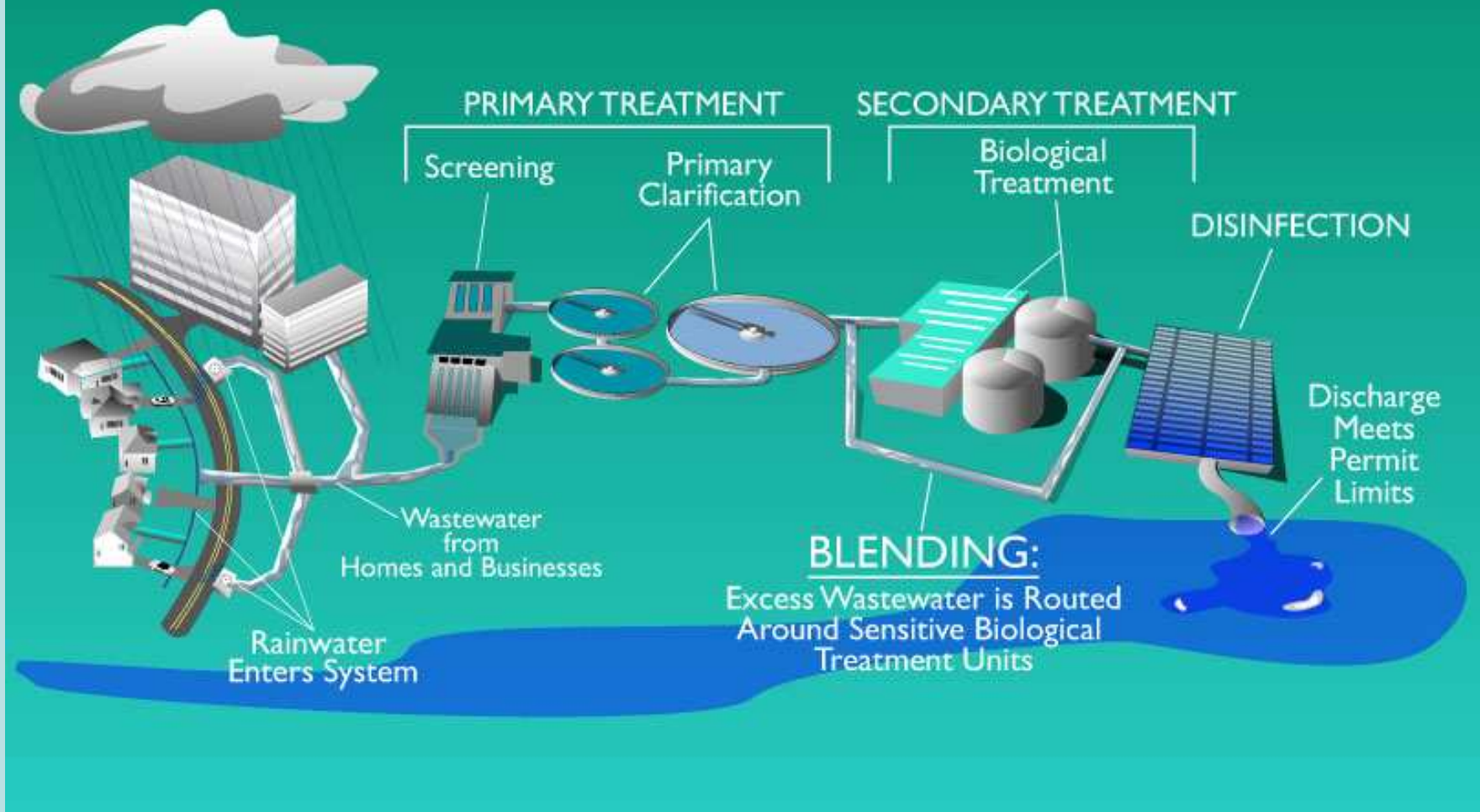
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- 💧 **Diverting a portion of peak wet weather flows around biological treatment units and combining effluent from all processes prior to discharge from a permitted outfall**
- 💧 **NPDES permit limits are met**
- 💧 **Implemented when flows exceed secondary treatment capacity**
- 💧 **Common wet weather flow management practice at many POTWs across the country**

## Typical Sewage Treatment System



## Blending at a Sewage Treatment Facility During a Storm



# Operational Considerations

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- 💧 **Blending provides protection of the secondary biological process**
  - ❖ Prevents wash-out of biomass
  - ❖ Maintains adequate treatment capability during and after storm events
- 💧 **No process is “skipped” (*i.e.*, secondary facilities are operated at full-capacity)**
- 💧 **Without blending some wet weather flows would receive no treatment before discharge to the environment**



# Why the Fuss?

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- 💧 In the early 2000's EPA Regions 2, 3, 4 and 9 stated in permitting situations that blending constituted illegal bypassing under the bypass prohibition of the CWA
- 💧 EPA Office of Enforcement stated expansions of facilities should not incorporate blending as this would constitute illegal bypassing
- 💧 POTW's recognized the need to maintain the long-standing practice that would cost billions if disallowed

# POTW Position on Blending

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- Initiated with CWA requirements for secondary treatment – 30 years of practice
- EPA disallowed grants for larger than needed secondary systems to handle peak wet weather flows
- Blending is not a bypass
- No evidence of detrimental public health or environmental impacts
- Permit limits should govern



# NGO Concerns

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- 💧 **Blending promotes concept that “dilution is solution to pollution”**
- 💧 **Blending is inconsistent with secondary treatment**
- 💧 **Flows diverted around biological units do not receive adequate treatment for pathogens or other pollutants**
- 💧 **Creates disincentives to invest in storage, collection, and treatment infrastructure**
- 💧 **Blending at POTWs could lead to same practice at industrial facilities**
- 💧 **Increasing chlorination during blending events creates health risks from disinfection byproducts**
- 💧 **Blending should be prohibited**

# The 1<sup>st</sup> Attempt.....

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- 💧 **November 7, 2003, U.S. EPA issued draft guidance regarding blending practices at municipal WWTPs**
  - ❖ **blending not a bypass**
  - ❖ **six conditions for permitting**
- 💧 **EPA received over 98,000 public comments**
- 💧 **Aggressive NGO PR campaign against blending**
- 💧 **Ltr to EPA from 165 members of Congress opposing blending**
- 💧 **“Save of Waters from Sewage Act of 2005” (HR1126)**
- 💧 **draft guidance was shelved in May 2005**

# NACWA's Effort to Find a Solution

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- In October 2005, NACWA and the Natural Resources Defense Council (NRDC) submitted a joint policy recommendations to EPA
- December 22, 2005, EPA published in Fed Reg. draft policy on *Permit Requirements for Peak Wet Weather Discharges from WWTPs Serving Sanitary Sewer Systems*
- Moves the blending issue from the enforcement arena to the permitting arena

# **The 2<sup>nd</sup> Attempt.....EPA Draft Blending Policy (Dec 2005)**

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- 💧 **Recognizes blending as an “anticipated bypass” and embodies the concept of continuous improvement**
- 💧 **Policy specifically applies to POTWs serving sanitary sewer systems (SSSs)**
  - ❖ **Combined sewer systems (CSSs) are covered under EPA’s 1994 CSO Policy**
- 💧 **Flows diverted around secondary treatment units must receive a minimum of primary treatment and any feasible supplemental treatment**
  - ❖ **No diversion and subsequent blending of raw, untreated wastewater**

# The 2<sup>nd</sup> Attempt.....(cont'd)

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- 💧 **POTWs must meet effluent limits based on secondary treatment and water quality-based effluent limits**
  - ❖ Includes 85 percent removal requirement
- 💧 **Permittee must demonstrate that there are “no feasible alternatives” to flow diversion and blending**
  - ❖ Requires approval of NPDES authority
  - ❖ Includes cost considerations

## **The 2<sup>nd</sup> Attempt .....(cont'd)**

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- 💧 **Flow diversion will not be approved if peak flows are due to:**
  - ❖ **Poor collection system maintenance, or**
  - ❖ **Lack of investment in upgrades to treatment capacity**
- 💧 **Permits that approve diversion should include a schedule for implementing feasible treatment technologies and I/I reduction projects**

## **The 2<sup>nd</sup> Attempt .....(cont'd)**

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- 💧 **Availability of feasible alternatives would be determined on a POTW-by-POTW basis**
- 💧 **All diversions would be reported to permitting authority and the public would be notified**
- 💧 **Policy encourages public participation in the permitting process**



# **“LOST” - the OMB version**

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- 💧 **Under review by Office of Management and Budget (OMB) for 3 years**
- 💧 **OMB – “delving further into the cost implications”**
- 💧 **2009 - Draft policy shelved with change in Administrations**

# In the Absence of Policy.....

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- 💧 EPA Region 7 is implementing it's own interpretation of the Draft Policy
  - ❖ use Bypass rule whenever flows do not meet 2<sup>o</sup> Treatment
  - ❖ requiring No Feasible Alternative Analyses

**Example: parallel physical/chemical treatment train**

# Problems with this approach

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- 💧 Utilizes a draft policy w/o the benefit of guidance to further clarify the intent and applicability.
- 💧 Does this change fundamental provisions of the secondary treatment rule?
- 💧 Utilities and State Regulators are not aware that parallel trains will be viewed as illegal (even if directed by local regulators or required by CD)

# NACWA's Communication w/ EPA

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- 💧 Oct 2006 - Joint communication w/NRDC to EPA on need for Guidance
- 💧 Dec 2008 - Ltr to EPA requesting clarification of Agency's position on blending
- 💧 May 2009 – Ltr to new Administrator to put in writing Agency's interpretation of Bypass and secondary treatment regs to provide opportunity to comment and find acceptable solution
- 💧 On-going discussions w/ EPA staff

# Next Steps

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- 💧 Continuing discussions with EPA to carve out solution for utilities with current permit issues
- 💧 Explore possibility of finalizing draft policy
- 💧 Continuation of the PMAA vs. EPA litigation?
  - ❖ Is blending a bypass
- 💧 Urging EPA to pursue a more holistic National Policy for SSOs



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## **Questions?**

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