



**BEAR VALLEY
WATER DISTRICT**
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September 14, 2011

Sent Via Electronic Mail

Charles Hoppin, Chair and Members
State Water Resources Control Board
1001 I Street, 24th Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100



Attn: Ms. Jeanine Townsend
Clerk to the Board
commentletters@waterboards.ca.gov

**Re: 9/19-20/2011 BOARD MEETING - ITEM 9
Consideration of a proposed Resolution adopting emergency regulations revising the core
regulatory fee schedules contained in Title 23, Division 3, Chapter 9, Article 1, Sections 2200
and 2200.6, and adding Section 2200.7 of the California Code of Regulations.**

Dear Chair Hoppin and Board Members,

The Bear Valley Water District submits these comments regarding the State Water Resources Control Board's (State Water Board) consideration of a proposed Resolution adopting emergency regulations revising the core regulatory fee schedules (Resolution). We are writing today to express our concern over the very large proposed increases and to urge the State Water Board to explore and implement more cost effective approaches to regulation, both in its implementation and administration.

The Bear Valley Water District is a small, sewer-only district that services 555 connections with a staff of three operators, a general manager and an office manager. The District's primary wastewater disposal method is land application under WDRs, but we do have an NPDES permit that authorizes discharge to surface waters under exigent conditions to prevent overflows from our Polishing Reservoir. We also are subject to SWRCB regulation under the SSO General Permit and the Division of Safety of Dams, with attendant fees for each program. With annual revenue of \$716,00 per year, the burden of permit costs alone for the various SWRCB programs is currently \$18,000/year, 2.5% of our total income, or, more tellingly, 6.2% of our operating budget of \$287,440.

Our base rate for sewer service is currently \$76.50/month, but, just to maintain our current level of service and to meet an overwhelming tidal wave of regulatory demands stemming from SSMP requirements, NPDES renewal-associated studies and compliance-related monitoring, reporting and construction, we are looking at a significant rate hike of 50% or greater. Two years ago an equivalent rate hike was proposed but was heading for defeat through a Proposition 218 protest prior to being withdrawn, so, out of the gate on this we are facing an uphill battle just to not lose ground.

The Bear Valley Water District is opposed to the large fee increases contemplated in the Resolution. Under the staff proposed fee structure, our facility permitting fees will increase by 33% for our wastewater treatment facility, and 23.8% for the Sanitary Sewer System Waste Discharge Requirements (SSS WDR). In this economy where we and virtually every other public agency, and businesses all across the country are being forced to cut costs, limit rate increases, and reduce staffing, such large rate increases are not only reprehensible and unsustainable, they directly impact availability of resources needed just to do our job, which is to safeguard the public and the environment.

We strongly urge the State Water Board to seriously evaluate and consider measures to reduce the cost of implementing its programs and programmatic measures to reduce the cost of unnecessary regulations to the regulated community. For example, the State Water Board should explore greater use of general permits, or perhaps advocate for a change in the federal law to allow a 10-year NPDES permit cycle thus reducing administrative costs for these programs.

Additionally, a major change is needed in the State's approach to regulations to make regulations more cost effective and to focus on real, rather than theoretical water quality problems. A prime example of focusing on perceived water quality issues absent a scientifically valid database demonstrating the existence of a widespread problem is the proposed toxicity enforcement policy. A huge regulatory effort has been sparked, seemingly, based on simple semantics. A powerful research tool developed to detect minute nuances in the responses of organisms to highly diluted effluents denotes the test results in terms of "toxicity units." Then, that tool is applied directly to whole effluent without the benefit of the dilution it was designed to incorporate, ergo the effluent is "toxic" and the environmental community, without a reasoned assessment of the actual effects in the real world, campaigns to use this research tool, complete with a built-in, and scientifically acknowledged, rate of false positives, as an enforcement tool. Going forward with this initiative will not only burden dischargers with astronomical costs as they spend, collectively, millions of dollars chasing transient, and in many cases, uncontrollable trace constituents, but in the process, drain SWRCB and Regional Board resources and occupy a new phalanx of staff to implement this program. Meantime, the state-wide monitoring programs have not detected any widespread patterns of toxicity in surface waters, except, possibly, for conventional parameters such as ammonia that are easily detected and controlled without resorting to expensive chronic toxicity screening.

We also recommend the State and Regional Water Boards take action to reduce the costs of unnecessary regulations on the regulated community by measures such as implementing Water Code Section 13241 in a more robust and realistic fashion than is typically done. Another positive action that could be pursued is to update and revise basin plans; this would reduce the cost of compliance as well as the resources that have to be spent to challenge and defend permits based on those outdated plans.

In summary, the Bear Valley Water District opposes the proposed permit fee increases and recommends the State Water Board direct its Staff to re-evaluate the cost effectiveness of its programs and its regulations.

Respectfully,



Julio S. Guerra
General Manager