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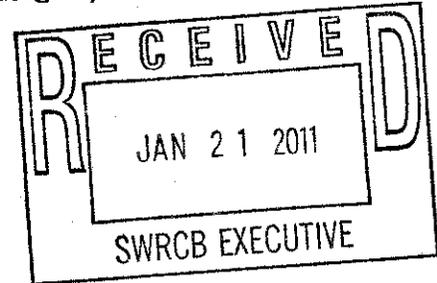
Transportation  
822-3775

Friday, January 21, 2011

Reply to: 736 F Street  
Arcata, CA 95521  
(707) 822-8184  
elust@cityofarcata.org

Via Electronic Mail

Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, Sacramento, CA 95814



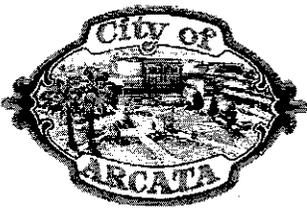
**SUBJECT: COMMENT LETTER - POLICY FOR TOXICITY ASSESSMENT AND CONTROL**

Dear Jeanine Townsend:

The City of Arcata appreciates the opportunity to provide written comments on the State Water Resources Control Board's (State Water Board's) Preliminary Draft Policy for Whole Effluent Toxicity Assessment and Control (Policy). While the City is fully committed to the protection of the environment and has pioneered the use of sustainable natural marsh systems for wastewater treatment the City does have concerns and comments regarding the proposed draft policy and the associated TST method.

Primarily the City has not been able to find the same cost savings associated with the new TST method as indicated in the Draft Policy. Rather the City has found that the new method along with the new monthly testing practice would instead increase the probability that the City would be subject to false positive toxicity findings which would result in increased costs due to additional testing required to disprove the false positives. Although the TST method is one previously unfamiliar to the City, the City recognizes that there are benefits associated with the new method due to the SWRCB training provided by Brian Ogg and Dr. Denton. Absent the claimed cost savings, the question is whether these new benefits outweigh those of the current method.

As the City understands it, the primary reason for switching to the new, untested, method is to improve statistical power and create an incentive for dischargers to improve the quality of the data by reversing the null hypothesis with the hypothesis while reducing the cost per test. Although this is a noble concept it isn't appropriate for government regulation. Incentives do not make good bid specifications and will not be easy to budget for. In simpler terms, if the statistical power of the time-tested WET method that is currently used isn't adequate it would be better to simply require more replicates to improve statistical power and/or set minimum



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statistical power standards. Ideally, it shouldn't be necessary to provide incentive to the City to do more testing or better testing but rather if more testing or better testing is needed to protect the environment new regulations should be made by the SWRCB and a clear new standard be established. Therefore, the City does not agree that utilizing a new method with the null hypothesis and hypothesis swapped to create incentive is needed or will provide the intended result. If a numeric limit is desired one could be set using the current WET method by simply creating new regulations made by the SWRCB which use the Toxic Units number in the current method. This would eliminate taking chances with a new method and would enable municipalities with limited technical resources to continue using a method staff is already familiar with.

Having an increased frequency of false positives erodes public confidence and creates a false impression of toxicity. It also diverts limited resources away from one area of environmental protection into another. Ideally the money spent would do the most to protect the environment instead of just chasing natural test variability which is inherent to biological testing. The City is particularly concerned about the relationship between the actual environment impact and the apparent toxicity that comes from the results generated by testing. Monthly testing may seem to generate more information but in the case of land based systems with long detention times spreading the testing with no regard to actual conditions wastes money at times and fails to generate enough information at other times. Utilizing a cheaper method to justify collecting more samples evenly spread throughout the year will not improve the conditions in the environment in the cases of large land based systems. If a standardized frequency is necessary the City requests that consideration be given for land based systems with long detention times, influent/rainfall volumes, and their relative effect on the environment. The Major Discharger category used in NPDES permits is a very broad category with extremely large dischargers in the same category as relatively small dischargers such as Arcata. The City requests that consideration be given for the scale of the possible impact and not just default to single, one size fits all program with equal requirements and possible penalties for systems that vary grossly in their ability to impact the environment.

In closing, the City sincerely appreciates the efforts put forth to generate the new draft policy and proposed TST method. All efforts to protect the environment are valuable in their own right. It is hoped that our concerns will help to shape the new policy in a way that will balance the costs, the protection of the environment, and the accuracy of the program in way that is equally fair to small communities utilizing long detention time land based systems.

Sincerely,  
Erik C. Lust  
City of Arcata Water/Wastewater Superintendent