

SASM

SEWERAGE AGENCY OF
SOUTHERN MARIN

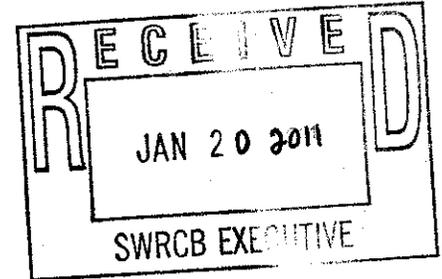
A Joint Powers Agency

- Almonte S.D.
- Alto S.D.
- City of Mill Valley
- Homestead Valley S.D.
- Richardson Bay S.D.
- Tamalpais S.D.

January 20, 2011

Via email: commentletters@waterboards.ca.gov

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



Subject: Draft Policy for Toxicity Assessment and Control

Dear Ms. Townsend:

The Sewerage Agency of Southern Marin (SASM) appreciates the opportunity to comment on the Draft Policy for Toxicity Assessment and Control. SASM is a Joint Powers Agency that serves approximately 28,000 residents in southern Marin County area from Tamalpais Junction to the northern Tiburon Peninsula. This facility has been in operation since the 1940's and upgraded in 1983. The original trickling filters were upgraded to bio-towers with secondary clarification. There are no industrial users in the SASM service area. Over 97% of the flow is residential. The plant is permitted to discharge 3.6 million gallons per day. The deep water outfall in Raccoon Strait of the San Francisco Bay is shared with another Wastewater Treatment Plant. The SASM Wastewater Treatment Plant, as a member of the *Wastewater Treatment Agencies of Marin County*, was recently awarded the "2010 Dr. Teng-chung Wu P2 Award" by the San Francisco Bay Water Board (Region 2) for leadership and excellence in pollution prevention.

Our agency is very concerned about the State Water Quality Control Board's Draft Policy for Toxicity Assessment and Control. This draft Policy, if adopted in its current form, will have significant impacts on our agency. For example, we understand that the Policy will result in required monthly acute and chronic toxicity testing, which could cost up to \$250,000 (depending upon which species is determined to be the most sensitive) over a 5-year permit term for our agency, even though we have had excellent compliance with acute and chronic toxicity testing over the last 22 years.

In addition, we understand that there will be an increased false positive error rate in the new compliance determination approach, which would trigger yet additional costly sampling for each trigger. This additional testing is not necessary or appropriate for an agency such as ours that has had a good record of toxicity testing compliance.

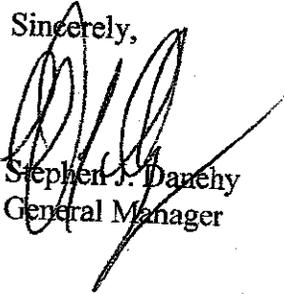
This new policy is unnecessarily stringent because there is no evidence that the water quality objectives and effluent limits are necessary. The draft Policy includes findings regarding toxicity that are qualified with "may be," "might be," or "could be" throughout the document. There are no concrete examples provided, only vague statements that "the potential for ecological harm would likely increase" without the Policy (for example see Staff Report at p. 45).

Under this proposed Policy, exceedances of acute and chronic toxicity limits are Clean Water Act violations subject to State penalties of up to \$10,000 per day or \$10.00 per gallon, and federal penalties of up to \$37,500 per day per violation. Additionally, our agency would be subject to third party lawsuit and attorney fee liability, particularly if regulators decide to take no enforcement actions. And, costs associated with conducting Toxicity Reduction Evaluations (TREs) can be high and long lasting, not to mention unnecessary treatment upgrades in response to false positive toxicity exceedances. Our agency is very concerned that the costs associated with coming into compliance in instances of actual or apparent toxicity were not considered by your staff because these costs were determined to be "too speculative." We are very concerned that the California Water Code section 13241 and economic analysis are inadequate.

The Sewerage Agency of Southern Marin hopes that the State Water Resources Control Board will take these comments under serious consideration. We appreciate the Board's actions to both extend the period to comment on this draft and to conduct an additional workshop so that all stakeholders can help realize the intended goals of the Board to standardize WET testing and evaluate the uncertainties of biological assessment.

Thank you for your consideration of our comments.

Sincerely,



Stephen J. Danahy
General Manager