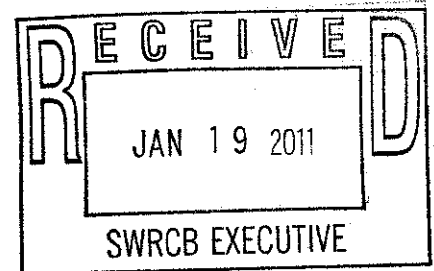


SANITARY DISTRICT NO.5 OF MARIN COUNTY

2001 PARADISE DRIVE
P.O. BOX 227
TIBURON, CALIFORNIA 94920
TELEPHONE (415) 435-1501
FAX (415) 435-0221



January 10, 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:

Sanitary District No.5 of Marin County appreciates the opportunity to comment on the Draft Policy for Toxicity Assessment and Control. Sanitary District No. 5 owns and operates 2 Wastewater Treatment Plants, which provide secondary treatment of domestic and commercial wastewater collected from the Town of Tiburon, the City of Belvedere, and surrounding, unincorporated areas, serving a current population of approximately 8,400. The Discharger's collection system consists of 33 miles of gravity sewer line, 5 miles of force main and 24 pump stations within its service area. The main Treatment Plant has an average dry weather design treatment capacity of 0.98 MGD and can treat up to 2.3 MGD during wet weather flow periods. The Paradise cove plant is a 40,000 gallon capacity treatment plant that recently replaced a 30 year old 20,000 capacity plant and also was a big player in the decommissioning of the Seafirth Estates treatment plant. Our District in partnership with the other Marin County wastewater treatment plants recently received the Dr. Teng-Chung Wu P2 award for our collaborative and diverse public education program. The six Marin County wastewater agencies came together in 2007 to implement a county-wide public education program with combined resources and a unified message.

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 will cost an additional \$296,000 (Our district currently spends \$195,949 on mandatory minimum sampling during permit term for both plants) 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 20+ years.

Additionally, 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.

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. In addition, 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.

Sanitary District No.5 of Marin County hopes that the State Water Resources Control Board will take these comments under serious consideration. We further request that the Water Board allow an additional 60 days for the comment period and direct staff to allow stakeholders to develop an alternative policy, and that an additional workshop on a draft Policy be held in 2011. Thank you for your consideration of our comments.

Sincerely,



Tony Rubio
Wastewater Facilities Manager