UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

April 8, 2015

Mr. David W. Gibson, Executive Officer
California Regional Water Quality Control Board
San Diego Region
2375 Northside Drive, Suite 100
San Diego, CA 92108

Re: U.S. EPA comments on draft NPDES permit for Padre Dam Municipal Water District, Ray Stoyer Water Recycling Facility (NPDES No. CA0107492)

Dear Mr. Gibson:

Thank you for the opportunity to review and comment on the public notice draft NPDES permit for discharges from the Ray Stoyer Water Recycling Facility. We support adoption of the draft permit's chronic toxicity requirements, as proposed.

EPA is pleased that the subject draft POTW permit plainly requires numeric effluent limits on chronic whole effluent toxicity (WET)—where there is reasonable potential—which are feasible to calculate for the discharge. As a result, the permit comports with Clean Water Act sections 301(b)(1)(C) and 502(11), and NPDES regulations at 40 CFR 122.44(d)(1)(i) and (v) and 40 CFR 122.45(d). Moreover, EPA supports the inclusion of both monthly and daily WQBELs for chronic toxicity, as the Regional Water Board has determined that such limits are necessary to protect against highly toxic short-term peaks of acute or chronic toxicity that exceed the applicable toxicity water quality standard. This draft permit is consistent with four POTW permits the Los Angeles Regional Water Board adopted last year, as well as four POTW permits currently proposed by the San Francisco Bay and Los Angeles Regional Water Boards, which express both monthly and daily chronic toxicity WQBELs numerically.

It is critical that permitting authorities explicitly choose and identify the statistical approach that will be used to protect the narrative toxicity water quality standard and interpret toxicity test results required by NPDES permits. The San Diego Board has chosen to regulate chronic toxicity with the Test of Significant Toxicity (TST) bioequivalence statistical t-test approach used to determine if two sets of observations—made for the effluent's in-stream waste concentration and the control concentration—are different. The TST is more rigorous than the classical NOEC/LOEC hypothesis testing approach because it more correctly assigns non-toxic and toxic results in relation to a permit's in-stream waste concentration. Together, the TST and the permit's WET reporting conditions (i.e., Order section VII.O and explanatory fact sheet language at section IV.C.7) take important steps to minimize inconsistent judgments by toxicity laboratories reviewing and reporting results after a WET test is conducted. It is our position that interpretation of a TST result will not be improved through application of either EPA's 2000 concentration-response pattern review guidance or 2002 PMSD criteria, both of which address

WET test review steps for unrelated statistical approaches. Also, new provision VII.O takes important steps to effectively address our concern that a laboratory's Standard Operating Procedures for chronic toxicity test data analysis and review can be used to improperly disqualify a WET test result.

As proposed, the permit contains clearly expressed, enforceable requirements for chronic WET that, going forward, provide a genuine opportunity for better decision-making using reported WET data of more transparent quality. We fully support adoption of the chronic toxicity requirements, as prepared by Board staff. If you have questions regarding these comments, please call me at (415) 972-3463, or Robyn Stuber at (415) 972-3524.

Sincerely,

for David W. Smith, Manager
NPDES Permits Section (WTR-2-3)