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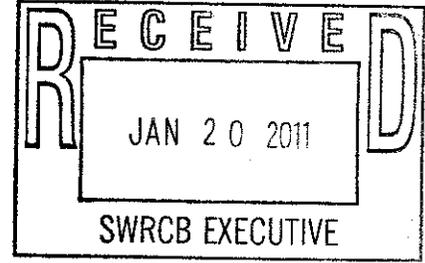
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Town Manager  
J. Matthew Mullan

January 21, 2011

Via email: [commentletters@waterboards.ca.gov](mailto: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 Town of Windsor (Town) appreciates the opportunity to comment on the Draft Policy for Toxicity Assessment and Control. The Town operates a wastewater treatment facility that serves a population of approximately 26,000, treating an average daily dry weather flow of 1.4 mgd. The Town is permitted to seasonally discharge treated effluent to Mark West Creek from October 1 through May 14, provided that effluent flows do not exceed one percent of the natural flow in the creek. Under the Town's existing NPDES permit, chronic toxicity testing is performed twice per year and acute toxicity testing is performed once per month during discharge events.

The Town is concerned about the State Water Quality Control Board's Draft Policy for Toxicity Assessment and Control. As a smaller POTW, this Draft Policy, if adopted in its current form, will have significant economic impacts to our operations. The Town has the identified key concerns with the Draft Policy below, and finds these to be consistent with the issues and recommendations identified in the joint response letter from the Clean Water Associations (Tri-Tac, CASA, BACWA, CVCWA, RCRC, and SCAP).

- The proposed policy requires monthly chronic toxicity testing for POTWs over 1 MGD. Currently the Town performs chronic toxicity testing semi-annually, which results in an annual cost of approximately \$20,000 per year. Under the Draft Policy, the Town would incur *additional* chronic toxicity testing costs of up to \$40,000 per year. The Town believes that quarterly monitoring for POTWs between 1 to 5 MGD is appropriate, which is consistent with the USEPA's threshold requirement for industrial pretreatment programs.
- The Draft Policy does not eliminate routine testing for acute toxicity, and leaves the requirement to the discretion of the Regional Water Quality Control Boards. Currently the Town performs monthly acute testing during discharge events, which results in an annual cost of up to \$3,000 per year. Currently, it is unknown if the Town's permit would be modified to eliminate acute toxicity monitoring. The economic analysis

prepared in the Staff Report of the Draft Policy assumes that POTWs would not incur the costs associated with acute toxicity monitoring. The Town recommends that the elimination of acute toxicity monitoring should be stated in the Policy to support the economic analysis that was prepared.

- The Town has historically had excellent compliance with acute and chronic toxicity objectives. The nature of the toxicity testing leads to a high rate of false positive results, which the Town has experienced in the past. For example, in 2010 the Town had a positive toxicity result that was determined to not be due to effluent toxicity, but instead be the result of interference from pathogen-related mortality in the fish species. Under the Draft Policy, a single test limit would be used to determine effluent toxicity. This would likely increase false positive indications of toxicity and the Town would incur additional costs associated with responding to a false positive results. The Town believes that a multiple test approach, as opposed to the single test numeric approach would satisfy the State Water Board's objectives.
- The current Draft Policy does not include a provision for effluent limitations to be reconsidered in each permit cycle. The Town believes that for POTWs under 5 mgd, reasonable potential should be reassessed in each permit cycle rather than presumed.

The Town hopes that the State Water Resources Control Board will take these comments under serious consideration together with the proposed modifications to the Policy submitted jointly by the Clean Water Associations (Tri-Tac, CASA, BACWA, CVCWA, RCRC, and SCAP). Thank you for your consideration of our comments.

Sincerely,



Richard W. Burt  
Public Works Director/Town Engineer