



## NORTH SAN MATEO COUNTY SANITATION DISTRICT

a subsidiary of the City of Daly City

### OPERATION OFFICES

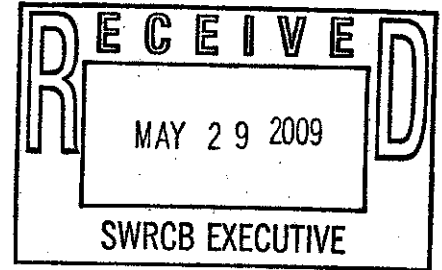
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BY EMAIL ([commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)) and FAX: (916) 341-5620  
(Original signed document on file and available upon request.)

May 29, 2009

Ms. Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, California 95814



Subject: Comment Letter – California Ocean Plan Amendments

Dear Ms. Townsend:

The North San Mateo County Sanitation District (NSMCSD) a subsidiary of the City of Daly City appreciates the opportunity to comment on the Proposed Amendments to the California Ocean Plan. NSMCSD owns and operates a publically owned wastewater treatment facility that discharges treated wastewater to the Pacific Ocean, west of Ocean Beach in San Francisco County. As a publically owned treatment works (POTW) that discharges to the Pacific Ocean, we are subject to the California Ocean Plan. We have reviewed the proposed amendments and provide the following comments for consideration.

### I. Clarification of Metals To Be Expressed As Total Recoverable

While the NSMCSD appreciate the State Water Resource Control Board's (State Water Board) efforts to provide clarifications to the Ocean Plan with respect to the metals objectives, we are concerned that the clarification ignores current Environmental Protection Agency (EPA) policy regarding the expression of metals objectives. More specifically, the *Draft Staff Report Proposed Non-Substantive Amendments to the California Ocean Plan* (March 2009 Draft Staff Report) explains that the State Water Board has consistently interpreted and applied the current metals objectives in the Ocean Plan as total recoverable concentrations. (Draft Staff Report at p. 8.) It further explains that the State Water Board's interpretation is consistent with EPA policy as expressed in the National Toxics Rule and in the 1986 Quality Criteria for Water. However, the Draft Staff Report fails to recognize EPA's most recently promulgated position on this issue.

In the California Toxics Rule (CTR), EPA promulgated toxics criteria for California, including criteria for metals. As part of that rule, EPA specifically states, "[i]t is now the Agency's policy that the use of dissolved metal to set and measure compliance with aquatic life water quality standards is the recommended approach, because dissolved metal more closely approximates the bioavailable fraction of the metal in the water column than does total recoverable metal." (Federal Register, Vol. 65, No. 97, Thursday, May 18, 2000 at p. 31690.) Considering EPA's statements in the CTR, the State Water Board should revise the Ocean Plan to include metals


criteria that are expressed as dissolved, not as total recoverable. Thus, we recommend that the State Water Board not adopt the proposed clarification and instead revise the Ocean Plan appropriately to include dissolved metals criteria.

## II. Remove Section III (F)(1) on Compliance Schedules

The NSMCSD is concerned that the proposed amendment to delete compliance schedule provisions in combination with the background information provided in the Draft Staff Report will result in further confusion regarding the potential use of in-permit compliance schedules for dischargers subject to the Ocean Plan. For example, the Draft Staff Report states that under existing law Regional Water Boards are able to adopt time schedule orders to ensure compliance with the Ocean Plan. (Draft Staff Report at p. 11.) However, the Draft Staff Report does not clarify that in-permit compliance schedules may be adopted for some permit provisions in accordance with the State Water Board's *Policy for Compliance Schedules in National Pollutant Discharge Elimination System Permits* (Compliance Schedule Policy). (See State Water Board Resolution No. 2008-0025.) In light of the application of the State Water Board's Compliance Schedule Policy, we recommend that the Ocean Plan be amended to clarify that in-permit compliance schedules may be appropriate - subject to the requirements contained in the Compliance Schedule Policy. Further, we recommend that the Draft Staff Report also be revised to clarify the application of the State's Compliance Schedule Policy to dischargers subject to the Ocean Plan.

Thank you for your consideration. If you have any questions, please do not hesitate to contact me at (650) 991-8203 Cynthia Royer.

Sincerely,



Cynthia J. Royer  
Manager of Technical Services

L09-086