



**San Jose
Water
Company**

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Song Her, Clerk to the Board
State Water Resources Control Board
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06/21/06 BMtg Item
Chlorine Policy
Deadline: June 5, 2006



**Subject: Comments on the California State Water Resources Control Board (SWRCB)
Proposed Total Residual Chlorine and Chlorine-Produced Oxidants Policy**

Dear Ms. Her:

San José Water Company appreciates this opportunity to provide comments on the draft "Total Residual Chlorine and Chlorine-Produced Oxidants Policy" (Chlorine Policy) released for stakeholder comment in April 2006.

Background Information

San José Water Company uses a chlorine residual as a critical water treatment tool to ensure disinfection of water supplies and water conveyance systems to protect public health. We occasionally have to discharge treated (chlorinated) drinking water into public storm water collection systems or other surface drainage systems as a part of routine maintenance (such as line flushing and hydrostatic testing), and sometimes on an emergency basis due to water line ruptures or accidental discharges at water treatment facilities.

When the April 2006 draft Chlorine Policy was released for public comment, San José Water Company was troubled by the language of the new draft that would capture almost all drinking water dischargers. ACWA reported that the SWRCB staff had reiterated drinking water utilities were not intended to be part of the policy.

ACWA has been working to develop compromise language that would allow potable water agencies to continue to operate under their current MS4 and NPDES permits and not be subject to the effluent limits in the Chlorine Policy. As of this date, language has not been offered by SWRCB staff to address this issue. San José Water Company shares the concern of ACWA over conflicting comments made by SWRCB staff indicating that language would instead be inserted requiring potable water dischargers to prove to our Regional Board we could not feasibly adhere to the Chlorine Policy when staff and the SWRCB Board has acknowledged drinking water utilities are not supposed to be included under the Policy's requirements.

San José Water Company is concerned that the draft Chlorine Policy includes drinking water utilities under its restrictions where we simply cannot dechlorinate to the level that is required in the policy document. We must dechlorinate in the field using Best Management Practices and Best Available Technology Economically Achievable. There is no field monitoring equipment available that will detect total residual chlorine to the proposed Chlorine Policy dechlorination

level of 0.019 mg/L (1-hr average, freshwater). Additionally, there are no field devices that can ensure precise dechlorination to that stringent level. Water utilities, instead, are regulated under MS4 Permits and RWQCB General Permits to ensure that potable water discharges do not impact water quality. Under these permits, water utilities are required to implement Best Management Practices (BMPs) or meet numeric effluent limits that are based on BAT to reduce the discharge of total residual chlorine to the maximum extent practicable (MEP). Consistent and effective BMPs and BATs have been developed for the state of California and are used by many water agencies throughout the state.

Conclusions and Recommendation

While San José Water Company shares ACWA's appreciation for the efforts made by the SWRCB staff, we continue to have the following issues with the Chlorine Policy:

- Since the first draft of the Chlorine Policy was published, potable water dischargers were given assurances by SWRCB staff that they were not included in this policy and would instead be regulated by their existing permits.
- Potable water utilities were not included in the Economic Analysis for the Chlorine Policy; further demonstrating there was no intent to include drinking water activities.
- SWRCB staff has also agreed that regulation of potable water discharges through BMPs and BATs is the only feasible option.
- Even with the repeated acknowledgement that the SWRCB understood the infeasibility of drinking water utilities' ability to adhere to the policy, the draft Chlorine Policy released in April 2006 and proposed for adoption includes potable water dischargers.
- SJWC has heard only anecdotal evidence as to why, if the SWRCB does not intend to capture potable water under this policy, the State Board is not able to exempt them from the policy.
- While the Chlorine Policy is designed to create statewide consistency, the language is confusing and could result in several different interpretations if adopted as currently written.

If it is in fact determined that a categorical exemption for potable water discharges is not legally allowable, then language that otherwise accomplishes this stated goal must be developed. It is San José Water Company's belief that this can be resolved. The aforementioned issues will take time to resolve and as a result we urge the SWRCB not to take action on this policy during the Public Hearing on June 19th. We are committed to a collaborative process that will best serve the needs of our industry and statewide water quality.

If you have any questions regarding the comments presented in this letter, please call Ken Ashford, Environmental Services Supervisor for San José Water Company, at (408) 279-7842.

Sincerely,
Andrew R. Gere, P.E.
Director of Operations and Water Quality
San José Water Company