August 8, 2011

Mr. John Madigan
SF Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Sent via electronic mail to JMadigan@waterboards.ca.gov

SUBJECT: Tentative Order for Discharges to the Hayward Marsh, Order No. R2-2011-XXXX, NPDES No. CA 0038636

Dear Mr. Madigan:

On behalf of the Bay Area Clean Water Agencies (BACWA), thank you for the opportunity to comment on the Tentative Order for dischargers to the Hayward Marsh, Order No. R2-2011-XXXX, NPDES No. CA 0038636 (TO). BACWA is a joint powers agency whose members own and operate the publicly owned treatment works (POTWs) and sanitary sewer systems that collectively provide municipal sanitary services to more than 6 million people in the nine-county San Francisco Bay Area. BACWA members are public agencies, governed by elected officials and managed by professionals committed to protecting the environment and public health.

BACWA supports the Union Sanitary District's request that the routine and annual reporting requirements in the TO be removed because they are unnecessary and redundant in this context. This comment letter, however, articulates BACWA's questions and concerns about those reporting requirements in the event that the Regional Water Board intends to incorporate them into future permits. These new requirements would increase the already substantial reporting burden on Bay Area POTWs without providing information or data that are not already available. BACWA member agencies have a history of, and are committed to, collaborating with the Regional Water Board and ensuring that staff have access to all information they need to perform their duties. In these challenging financial times, however, agencies must be certain that their limited resources are appropriately allocated towards the highest priorities.

While the language is somewhat confusing, BACWA understands TO Provision VI.C.2.a.(2)(a) (*Routine Reporting*) to require all permittees to report, in their monthly transmittal letters, all priority pollutant analysis results that are above and/or within one order of magnitude of the applicable water quality objective (WQO). BACWA members recognize the value in reviewing these data, but object to the administrative burden of transmitting potentially considerable amounts of information in the transmittal letters. BACWA requests that the Regional Water Board revise standard permit reporting requirements in the following ways:

1) *Allow agencies the option of reporting priority pollutant results in either their monthly transmittal letter or to eSMR.*

   BACWA supports the inclusion in NPDES permits of two reporting options, similar to those options incorporated into Order No. R2-2011-0028. Under the first option, permittees could enter priority pollutant results directly into the eSMR system where they would be available to the Regional Water Board and others. Under the second option, permittees who chose not to enter the results into eSMR would identify, in their

transmittal letter, the results of any priority pollutant analyses that are above and/or within one order of magnitude of the applicable WQO. Under both scenarios, key information is made available to the Regional Water Board and others interested in a timely manner. The distinction is that the agency is able to select the option that is least burdensome considering its circumstances. For example, some agencies with Laboratory Information Management Systems may find it more convenient to report directly to eSMR, whereas smaller agencies may opt to report in their transmittal letters.

BACWA understands that one of the reasons to require reporting in the transmittal letter is to ensure that permittees conduct a timely review of their analytical results. In practice, however, many (if not all) agencies review the data upon receipt. Additionally, other permit requirements ensure that these data are reviewed and responded to in a punctual way. For example, an annual evaluation of these data are already required. The current system, therefore, provides Regional Water Board staff with the information they need in a timely way.

2) *Clarify that these provisions do not apply to priority pollutants for which the permittee has effluent limits.* Many permittees have numeric limits for priority pollutants such as copper and cyanide. These results, consistent with federal and state regulations, must be reported to eSMR and, therefore, the option being requested does not apply. BACWA requests that the standard reporting language be modified to clarify this point for agencies that elect to report priority pollutant analyses in their transmittal letters.

Thank you for your consideration of these comments. We welcome the opportunity to discuss these concerns with staff prior to adoption of this TO with the hope that these issues can be readily resolved.

Sincerely,

Amy Chastain

Amy Chastain, Executive Director