

# Commentary

## Will toxics initiative help clean up our water?

**YES:** It will ensure that law can deliver what it promises

### Voters should join tap water rebellion

By Ted Smith

**O**N Nov. 4 voters will have a chance to join the tap water rebellion by sending a message to toxic polluters — either clean up your act or else be prepared to pay for the full costs of using and abusing unsafe chemicals.

By now, most people in our valley are only too familiar with toxic contamination. Silicon Valley now has 19 current and proposed Superfund toxic sites, more than any other county in the country. The number of sites of toxic contamination in the county has surpassed 450, and the most recent statistics from the California Regional Water Quality Control Board show that at only a handful of these sites has the spread of chemicals even been contained, much less cleaned up.

We have learned of 230 new toxic sites in the county in 1986 alone, yet we are told that there will be at least an 18-month delay in cleanup, since Gov. Deukmejian has repeatedly vetoed important toxics legislation and funding. This is downright bad for business and residents alike. None of us wants to learn again from the Department of Health Services that the birth defect rate has tripled in a neighborhood with contaminated water supply.

Proposition 65 presents a partial — yet significant — solution: (1) it prohibits the discharge into drinking water of chemicals known to cause cancer or birth defects; (2) it requires warnings before exposing anyone to any of those same chemicals; and (3) it increases enforcement options with penalties and citizen suit provisions. This last aspect is particularly feared by opponents since it removes the layers of bureaucracy and allows direct citizen lawsuits when government fails to act.

Most importantly, Proposition 65 reverses the burden of proof in cases of scientific uncertainty: It requires the polluter to prove that a listed chemical is safe rather than requiring the victim to prove that it is unsafe. In other words, once a chemical is put on the list of known carcinogens or reproductive toxins, it would at that point be presumed guilty until proven innocent under the circumstances.

At the heart of the debate prompted by Proposition 65 is the fundamental public policy question: Who should bear the risks of scientific uncertainty — the victims of toxic exposure or the manufacturers and users of toxic chemicals? Industry representatives who blithely advocate a policy of "acceptable risk" as the guiding light for toxics regulation (as long as the risks are borne by the public) do an abrupt about-face and throw up claims of "impossibility" when the tables are turned and the risks of these uncertainties must be borne by industry.

The high-tech industry, of course, does have good reason to be greatly concerned about toxics regulation, since it depends heavily on thousands of chemical compounds — a few of which would be covered — such as arsenic (a known carcinogen) and glycol ethers (which cause birth defects). In fact, U.S. electronics' chemical shipments in 1984 was more than \$3.2 billion and will reach \$6.6 billion by 1989, according to *Electronic Purchasing* magazine.

The electronics industry does not need to follow the petrochemical industry down the path of ever-increasing reliance on more hazardous chemicals.

Proposition 65 encourages innovation since it switches the incentives, thereby encouraging the development of safe chemical substitutes, promoting more stringent pre-market testing of chemicals, and reducing the toxics problem at the source. Unfortunately, industry leaders have missed the boat this time; fortunately, the rest of us don't have to follow their lead when we go to the ballot box.

*Ted Smith is executive director of the Silicon Valley Toxics Coalition.*