



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, PE, Chair

Fresno Branch Office
1685 E Street, Fresno, California 93706
(559) 445-5116 • Fax (559) 445-5910
<http://www.waterboards.ca.gov/centralvalley>



Arnold
Schwarzenegger
Governor

5 March 2008

TO: See Attached List

NOTICE

TENTATIVE WASTE DISCHARGE REQUIREMENTS (NPDES NO. CA0079219) FOR CITY OF MERCED WASTEWATER TREATMENT FACILITY MERCED COUNTY

TO ALL CONCERNED PERSONS AND AGENCIES:

Enclosed are responses to comments on the subject tentative Waste Discharge Requirements (TWDRs) that were circulated on 11 January 2008. Changes made to the TWDRs in response to comments are included in the copy of the TWDRs posted on the Regional Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/0803/index.shtml

In addition to the changes made in response to comments, Regional Water Board staff also clarified the receiving water monitoring locations in the proposed Monitoring and Reporting Program (Attachment E) of the TWDRs.

A copy of proposed late revisions that staff intends to present to the Regional Water Board is also enclosed. The late revisions provide language supporting the proposed compliance schedules in the TWDRs and include changes that shorten some of the compliance schedules based on information provided by the City of Merced's engineering consultant.

To conserve resources, paper copies of these items are being sent to the Discharger and interested parties that have commented on the TWDRs. These items will be posted on the above website prior to the meeting of the Regional Water Board. If you have questions

or would like to request paper copies of these items, please contact W. Dale Harvey at (559) 445-6190.

W. DALE HARVEY
Senior WRC Engineer
RCE. No. 55628

Enclosure: Response to Comments
Late Revisions

DISCHARGER

Mr. Humberto Molina,
Public Works Manager
City of Merced
1776 Grogan Avenue
Merced, CA 95340

CERTIFIED MAIL
7007 0710 003 6399 8145

INTERESTED PERSONS LIST

Mr. Doug Eberhardt, (WTR-5), U.S. Environmental Protection Agency, San Francisco
U.S. Army Corps of Engineers, Sacramento
U.S. Fish and Wildlife Service, Sacramento
U.S. National Marine Fisheries Service, Sacramento
Ms. Lori Okun, State Water Resources Control Board, OCC, Sacramento (via email)
Mr. Phil Isorena, State Water Resources Control Board, DWQ, Sacramento (via email)
Mr. Jim Pedri, Regional Water Quality Control Board, Redding (via email)
Mr. Jon Marshack, Regional Water Quality Control Board, Rancho Cordova (via email)
Department of Toxic Substances Control Division, Clovis
Mr. Carl Carlucci, Department of Public Health, Office of Drinking Water, Fresno
Department of Fish and Game, Region IV, Fresno
Department of Water Resources, San Joaquin District, Fresno
Merced County, Environmental Health Department, Merced
Merced County, Department of Public Works, Merced
Merced Irrigation District, P.O. Box 2288, Merced, CA 95344
Mr. Robert W. Emerick, ECO:LOGIC Engineering, 3875 Atherton Road, Rocklin, CA 95765
Mr. Stephen A Tarantino, Erler & Kalinowski, Inc., 1870 Ogden Drive, Burlingame, CA 94010
Mr. Bill Jennings, California Sportfishing Protection Alliance, Stockton
Ms. Debbie Webster, Central Valley Clean Water Association, Auburn
Mr. Jim Wheaton, Environmental Law Foundation, 1736 Franklin St., 9th Fl., Oakland,
CA 94612



**Regional Water Quality Control Board
Central Valley Region
Board Meeting –14 March 2008**

Response to Written Comments on Tentative Waste Discharge Requirements for City of Merced, Wastewater Treatment Facility Merced County

At a public hearing scheduled for 14 March 2008, the Regional Water Quality Control Board, Central Valley Region (Regional Water Board) will consider adoption of Waste Discharge Requirements (NPDES No. CA0079219) (hereafter Permit) for the City of Merced Wastewater Treatment Facility, which was circulated as tentative on 11 January 2008. This document contains responses to written comments received from interested parties regarding the tentative Permit. Written comments from interested parties were required to be received by the Regional Water Board by noon on 11 February 2008 in order to receive full consideration. Comments were received by the deadline from:

1. The City of Merced (City). (Similar comments were submitted by City staff and by the City's Engineering Consultant, ECO:LOGIC Engineering on behalf of the City)
2. Central Valley Clean Water Association (CVCQA)
3. California Sportsfishing Protection Alliance (CSPA)

The National Marine Fisheries Service (NMFS) submitted comments the same day, but after the noon deadline.

Written comments from the above interested parties are summarized by staff below, followed by the staff response.

CITY COMMENTS

CITY - COMMENT - 1: The City requests removal of references to Class A biosolids in Limitations and Discharge Requirements, Section II.B.1, and Fact Sheet Section II.E., to retain the flexibility to apply Class B biosolids to the Land Application Area or disposal of WWTF biosolids to a permitted landfill.

RESPONSE: We have made the changes.

CITY - COMMENT - 2: The City requests that Limitations and Discharge Requirements, Section III.E. be modified to allow storm water runoff to be released from the LAA, provided it occurs at least 30 days after the most recent application and incorporation of biosolids and there is no ponded recycled water on-site.

RESPONSE: The change has not been made. The subject Prohibition is carried over from WDRs Order No. 97-034 and prohibits the discharge of tailwater and field runoff water from the Land Application Area unless the specified conditions are met. Tailwater and field runoff refers to excess applied recycled water and, in our opinion, the Prohibition does not proscribe the discharge of storm water from the LAA under the conditions described by the City.

CITY - COMMENT - 3: The City points out typographical errors in Limitations and Discharge Requirements, Section IV.A.e, and f, regarding aluminum and iron.

RESPONSE: The limitations have been corrected.

CITY - COMMENT - 4: The City notes that the chromium and selenium limitations in Limitations and Discharge Requirements, Section IV.E.3, are inconsistent with Title 40, Code of Federal Regulations, Part 503 et seq. (40 CFR 503).

RESPONSE: The Regional Water Board does not implement 40 CFR 503. However, it does use 40 CFR 503 as guidance when developing biosolids limits. The proposed Permit limitations were carried over from WDRs Order No. 97-034. Subsequent to the adoption of Order No. 97-034, USEPA modified 40 CFR 503 to remove chromium limits and to adjust selenium limits. We have modified the permit to be consistent with the requirements of 40 CFR 503.

CITY - COMMENT - 5: The City requests that the work plan to conduct the temperature study required by Limitations and Discharge Requirements, Special Provisions, Section VI.C.2.c, be required six months following adoption of the Order and that the compliance dates therein be based on an Executive Officer approved time schedule.

RESPONSE: The schedule has been changed accordingly.

CITY - COMMENT - 6: The City requests that we add a definition for Monthly Average Dry Weather Discharge Flow to Attachment A of the proposed permit and provides suggested language.

RESPONSE: We have added a definition that is similar to that proposed by the City and clarified related language in other parts of the Permit.

CITY - COMMENT - 7: The City requests that we replace Attachment C, page 3 with an updated version showing that the City may land apply Class B

RESPONSE: The change has been made.

CITY - COMMENT - 8: The City notes that WDRs Order No. 5-00-246 allows lab water to be used as a control in toxicity testing because of reoccurring toxicity of the receiving water.

RESPONSE: Monitoring and Reporting Program, Section V.B.7, allows the dilutions to be lab water if the receiving water control is toxic.

CITY - COMMENT - 9: The City points out the MRP does not require flow monitoring for discharges to the WMA.

RESPONSE: Monitoring and Reporting Program Section IV.A requires flow monitoring for all discharge locations.

CITY - COMMENT – 10: The City points out typographical and grammatical errors in the proposed Permit.

RESPONSE: The changes have been made where appropriate.

CVCWA COMMENTS

CVCWA - COMMENT - 1: CVCWA objects to the effluent limits for electrical conductivity (EC). CVCWA contends that use of the objectives from the Tulare Lake Basin Plan to set numeric effluent limits in the Sacramento-San Joaquin Basin is inappropriate and that such limits do not pass a reasonable test of best professional judgment. CVCWA states that no showing has been made that these effluent limits represent a practicable or reasonable level of treatment or control. CVCWA indicates that the treatment process needed to achieve EC control in effluent is reverse osmosis and that related extreme capital and operating costs, extreme energy requirements, and the resulting carbon footprint preclude reverse osmosis from being a viable or practicable treatment process for POTWs. CVCWA states that the only feasible EC controls that can be exercised by municipalities are through source control activities. CVCWA provides results of “A recent survey” of 74 POTWs in California that indicates the median EC increment in the Central Valley was approximately, while the 95th percentile EC increment was approximately 830 umhos/cm. CVCWA states that based on this information the proposed effluent limits for EC increment above water supply limits are not reasonably achievable, are not “practicable” and should not be used in the City of Merced, or other NPDES permits.

RESPONSE: The EC limitations remain unchanged. It is unclear whether the POTWs surveyed are implementing appropriate source control and pretreatment measures targeted at salinity issues.

As described in Fact Sheet, Section IV.C.3.p, the EC limitations in the Permit are intended to serve in the interim until limitations based on the Salt and Boron TMDL are implemented.

Practicable is defined as capable of being accomplished. The proposed EC limitations are modeled after the water quality objectives in the *Water Quality Control Plan for the Tulare Lake Basin, Second Edition - 1995*; WWTFs in the Tulare Lake Basin are required to and do meet effluent EC limitations based on these objectives. The proposed incremental EC increase limitation is also within the municipal wastewater EC incremental addition range described in engineering texts (e.g., *Wastewater Engineering*, Metcalf & Eddy, 2003). Merced’s self-monitoring data demonstrates that the WWTF effluent has historically been and continues to be below the proposed annual average EC limitations. Given this, the proposed EC limits are appropriate and practicable.

CVCWA - COMMENT - 2: CVCWA comments that the aluminum and iron limitations on page 13 of the proposed Permit require correction.

RESPONSE: See response to City – Comment 3.

CVCWA - COMMENT - 3: CVCWA states that the receiving water limitations in the Permit create a situation where the discharge could be in compliance with the effluent limitations but causing non-compliance with the receiving water limitations. CVCWA suggests the receiving water limits be modified to state that compliance with the effluent limitations will satisfy compliance obligations with the receiving water limitations.

RESPONSE: The requested change has not been made. The receiving water limitations are based on and consistent with the water quality objectives in the Basin Plan. The Permit cannot be constructed to authorize a violation of the Basin Plan turbidity objective.

CVCWA - COMMENT – 4: CVCWA comments that the language in Limitations and Discharge Requirements, Section VII, (Compliance Determination) describing how the Regional Water Board will assess compliance with the Permit’s effluent flow limitation is inconsistent with the flow limit and discussion in other sections of the Permit. CVCWA proposes that “average daily discharge flow” be eliminated and other sections of the Permit be clarified.

RESPONSE: We have deleted the discussion in the Permit Compliance Determination section and added a definition of Monthly Average Dry Weather Discharge Flow in Attachment A (Definitions). See response to City – Comment - 6.

CVCWA - COMMENT - 5: CVCWA comments that Fact Sheet language regarding the basis for the CTR mercury criteria is incorrect.

RESPONSE: The language has been corrected.

CSPA COMMENTS

CSPA – COMMENT - 1: CSPA states the proposed Permit contains an inadequate antidegradation analysis that does not comply with the requirements of Section 101(a) of the Clean Water Act, Federal Regulations 40 CFR 131.12 and the State and Regional Water Board’s Resolution 68-16. CSPA believes the antidegradation analysis is simply deficient and virtually nonexistent.

RESPONSE: The comments are noted, and the anti-degradation analysis discussion has been expanded. However, the suggestion that all waters should be analyzed as if they were Outstanding Natural Resources Waters is not in keeping with the 40 CFR 131.12, which defines such waters as, “National and State parks and wildlife refuges

and waters of exceptional recreational or ecological significance.” Hartley Slough is best characterized as a Tier 1 water body under the federal regulations.

CSPA – COMMENT - 2: CSPA states the proposed Permit does not contain an effluent limitation for ammonia in violation of 40 CFR 122.44, California Water Code, Section 13377 and contrary to the antibacksliding regulations at 40 CFR 122.44 (I). CSPA believes the presence of ammonia in the influent alone presents a reasonable potential for ammonia to be discharged in quantities that exceed water quality standards and objectives and the Basin Plan narrative toxicity water quality objective.

CSPA states the proposed Permit does not require the WWTF to be operated in a nitrification mode and the existing ammonia limitation from the existing Permit has been removed in violation of backsliding regulations at 40 CFR 122.44(I).

RESPONSE: The comment, “the presence of ammonia in the influent wastewater alone presents a reasonable potential for ammonia to be discharged in quantities that exceed water quality standards and objectives,” is incorrect. The permit continues to mandate daily monitoring for ammonia in both the influent and effluent, and staff has followed the procedures outlined in the State Implementation Policy for finding that the discharge does not have a reasonable potential to cause or contribute to an exceedence of applicable water quality objectives. As described in Fact Sheet Section IV.C.3.d, new information in the form of three years of effluent and receiving water data indicate that the discharge does not have the reasonable potential to cause an exceedence of a water quality criteria for ammonia in Hartley Slough.

The assertion that the Permit does not require the WWTF to be operated in nitrification mode is also incorrect. The WWTF has been substantially modified and is designed to nitrify and denitrify. Special Provision VI.C.6.f, requires the Discharger to properly operate the WWTF as designed. Failure of the Discharger to properly nitrify and denitrify the WWTF effluent will result in violations of this provision. Excess discharges of ammonia will result in violations of the receiving water limitations for toxicity or the effluent limitations for acute toxicity. Excess discharges of ammonia will also be revealed by the required chronic toxicity monitoring.

Removal of the ammonia limitations is consistent with the exceptions allowed by 40 CFR 122.44(I)(2)(i)(A), which allows the removal of an effluent limitation when substantial alterations have been made to a WWTF after permit issuance that justify the application of a less stringent limitation, and 40 CFR 122.44(I)(2)(i)(B)(1), which allows the removal of an effluent limitation when new information is available that would have justified the application of a less stringent effluent limitation at the time of permit issuance.

CSPA – COMMENT – 3: CSPA states the proposed Permit does not contain an effluent limitation for oil and grease that was present in the existing Permit in violation of Federal Regulations 40 CFR 122.44, California Water Code, Section 13377 and contrary to 40 CFR 122.44 (I).

RESPONSE: As stated in Fact Sheet section IV.C.3, for the last three years, the maximum measured oil and grease in the WWTF's effluent has been well below the effluent guidelines in the existing Permit. Staff has followed the procedures outlined in the State Implementation Policy for finding that the discharge does not have a reasonable potential to cause or contribute to an excursion above water quality objectives. The permit still contains the receiving water limitation that, "Oils, greases, waxes, or other materials to be present in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses." Removal of the oil and grease limits is allowable under 40 CFR 122.44(l)(B)(1) (new information).

CSPA – COMMENT - 4: The proposed Permit fails to contain a chronic effluent limitation for aluminum in accordance with 40 CFR 122.44. Aluminum exceeds USEPA's Ambient Water Quality Criteria of 87 µg/l. The USEPA's criteria are appropriate to evaluate compliance with the narrative water quality objective in accordance with the Basin Plan.

RESPONSE: As described in Fact Sheet Section IV.C.3, the USEPA's chronic ambient water quality criteria for aluminum is based on studies conducted on sensitive species with low pH (6.5 to 6.8) and low hardness (< 10 mg/L). These conditions are unlikely to occur in Hartley Slough and anecdotal evidence indicates that the application of a limitation based on the chronic criteria will likely be overprotective by orders of magnitude. Thus, the Permit includes an acute effluent aluminum limitation based on the USEPA acute criteria and an annual average limitation based on the State MCL. The Permit also requires the Discharger to conduct a study to determine an appropriate site-specific chronic criteria upon which a chronic effluent limitation can be based. In the interim, the Permit includes acute effluent toxicity limits, a receiving water limit that proscribes the discharge from causing aquatic toxicity in the receiving water, and whole effluent acute and chronic toxicity monitoring to ensure that the discharge does not cause an exceedance above the Basin Plan's narrative objective for toxicity in Hartley Slough.

CSPA – COMMENT - 5: The proposed Permit fails to contain mass-based effluent limits for all effluent limited constituents except BOD and TSS, as required by 40 CFR 122.45(b).

RESPONSE: The federal regulations require mass limitations for POTWs, but include specific exceptions. 40 CFR 122.25(f)(1)(ii) states that mass limitations are not required when applicable standards are expressed in terms of other units of measurement (e.g. concentration). The Permit includes mass based limitations for BOD and TSS as required. Mass limitations are not included for aluminum, dibromochloromethane, dichlorobromomethane, iron, nitrite+nitrate, or total residual chlorine, the criteria for which are concentration based. Including additional mass limitations for these constituents, which would simply be calculated based on the concentration-based WQBEL and the Facility's design flow, are not necessary for protection of the beneficial uses of the receiving water.

The Regional Water Board includes mass limitations, in addition to the concentration limitations, in NPDES permits when the mass limitations are necessary to protect the beneficial uses of the receiving water, such as for oxygen-demanding substances, bioaccumulative substances.

CSPA – COMMENT – 6: CSPA states the proposed Permit contains an effluent limitation for acute toxicity that allows mortality that exceeds the Basin Plan water quality objective and does not comply with 40 CFR 122.44 (d)(1)(i). 40 CFR 122.44 (d)(1)(i) requires that limitations must control all pollutants or pollutant parameters which the Director determines are or may be discharged at a level which will cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.

RESPONSE: The proposed Permit contains several mechanisms to ensure that effluent discharge does not cause acute toxicity in the receiving water, as follows:

- Receiving Water Limitations – Surface Water Limitations prohibit toxic substances to be present, individually or in combination, in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life.
- Effluent Limitations – Based on the protection of the aquatic life beneficial use for the Hartley Slough, the proposed Permit contains constituent-specific effluent limitations developed without dilution credit and using aquatic life toxicity criteria.
- Whole Effluent Toxicity (WET) Testing – WET testing is required to identify both acute and chronic cumulative effluent toxicity. If this testing shows that the discharge causes, has the reasonable potential to cause, or contributes to an in stream excursion of the water quality objective for toxicity, the proposed Permit requires the City to investigate the causes of and identify corrective actions to eliminate the toxicity.

The acute whole effluent toxicity limits establish additional thresholds to control acute toxicity in the effluent: survival in one test no less than 70% and a median of no less than 90% survival in three consecutive tests. Some in-test mortality can occur by chance. To account for this, in the USEPA acute toxicity test method, the test acceptability criteria allow ten percent mortality (requires 90% survival) in the control. Thus, the acute toxicity limits allow for some test variability, but impose ceilings for exceptional events (i.e., 30% mortality or more), and for repeat events (i.e., median of three events exceeding mortality of 10%). These effluent limitations are consistent with USEPA guidance. In its document titled "Guidance for NPDES Permit Issuance", dated February 1994, it states the following beginning on page 14:

"In the absence of specific numeric water quality objectives for acute and chronic toxicity, the narrative criterion 'no toxics in toxic amounts' applies. Achievement of the narrative criterion, as applied herein, means that ambient waters shall not

demonstrate for acute toxicity: 1) less than 90% survival, 50% of the time, based on the monthly median, or 2) less than 70% survival, 10% of the time, based on any monthly median. For chronic toxicity, ambient waters shall not demonstrate a test result of greater than 1 TUc."

The proposed Permit is protective of aquatic life beneficial uses and will implement numerous measures to control individual toxic pollutants and whole effluent toxicity. Both the acute limits and receiving water limits are consistent with numerous NPDES permits issued by the regional water boards and throughout the State and are appropriate.

CSPA – COMMENT – 7: CSPA states the proposed Permit does not contain effluent limitations for chronic toxicity and therefore does not comply with 40 CFR 122.44 (d)(1)(i) and the SIP.

Response: There currently is no clear mechanism for implementing effluent limitations for chronic toxicity in NPDES permits. The SIP contains implementation gaps regarding the appropriate form and implementation of chronic toxicity limits. This has resulted in a petition of an NPDES permit in the Los Angeles Region that contained numeric chronic toxicity effluent limitations. As a result of this petition, the State Water Board adopted WQO 2003-012 directing its staff to revise the toxicity control provisions in the SIP. The State Water Board states the following in WQO 2003-012, *"In reviewing this petition and receiving comments from numerous interested persons on the propriety of including numeric effluent limitations for chronic toxicity in NPDES permits for publicly-owned treatment works that discharge to inland waters, we have determined that this issue should be considered in a regulatory setting, in order to allow for full public discussion and deliberation. We intend to modify the SIP to specifically address the issue. We anticipate that review will occur within the next year. We therefore decline to make a determination here regarding the propriety of the final numeric effluent limitations for chronic toxicity contained in these permits."* The process to revise the SIP is currently underway. Proposed changes include clarifying the appropriate form of effluent toxicity limits in NPDES permits and general expansion and standardization of toxicity control implementation related to the NPDES permitting process.

Without the toxicity control provisions in the SIP, the State Water Board concluded that it is infeasible to develop numeric effluent limitations for chronic toxicity. (WQO 2003-0012, pp. 9-10) The Permit includes a narrative receiving water limit (Section V.A.16) and whole effluent toxicity testing requirements for both acute and chronic toxicity. Toxicity numeric monitoring triggers are also included in the Permit. If the discharge exceeds the toxicity numeric monitoring trigger established in the Permit, the Discharger is required to initiate a Toxicity Reduction Evaluation (TRE), in accordance with an approved TRE Work Plan, and take actions to mitigate the impact of the discharge and prevent reoccurrence of toxicity. Lastly, the Permit contains a Reopener Provision that allows it to be reopened to include a chronic toxicity limitation, a new acute toxicity limitation, and/or a limitation for a specific toxicant identified in the TRE.

In summary, the Permit implements the Basin Plan's narrative toxicity objective, as allowed under 40 CFR 122.44(k).

CSPA – COMMENT – 8: CSPA contends that Regional Water Board authority to issue compliance schedules as presented in the proposed Permit under the CTR has now lapsed. CSPA also states the compliance schedules in the proposed Permit are not as short as practicable because the Permit includes a schedule that requires the discharge to comply with limits for CTR constituent by May 2010 yet grants the Discharger until 2013 (5-years) to comply with limitations for aluminum, iron, nitrate, BOD and TSS. CSPA states the treatment system cannot sensibly be improved/expanded to comply with CTR based effluent limitations without considering complete compliance.

Response: The Regional Water Board disagrees with the contentions. The State Water Board adopted the SIP and has authority under State law to establish policy for implementing the CTR. The SIP authorizes compliance schedules. In addition, the Basin Plan authorizes compliance schedules for newly adopted or newly interpreted water quality objectives.

As discussed in Finding K of the Permit, for CTR constituents, Section 2.1 of the SIP provides that, based on a Discharger's request and demonstration that it is infeasible for an existing Discharger to achieve immediate compliance with an effluent limitation derived from a CTR criterion, compliance schedules may be allowed in an NPDES permit. Unless an exception has been granted under section 5.3 of the SIP, a compliance schedule may not exceed 5 years from the date that the permit is issued or reissued, nor may it extend beyond 10 years from the effective date of the SIP (or 18 May 2010) to establish and comply with CTR criterion-based effluent limitations. Where a compliance schedule for a final effluent limitation exceeds one year, the Permit must include interim numeric limitations for that constituent or parameter.

The Permit includes a time schedule for the Discharger to comply with CTR-based effluent limitations by 18 May 2010 (i.e., 10 years from SIP effective date). The Discharger provided the required technical justification for the compliance schedule in accordance with Section 2.1 of the SIP. The Permit requires compliance with interim effluent limitations (as required by the SIP) and submission of annual progress reports. A detailed discussion of the basis for the compliance schedule(s) and interim effluent limitation(s) is included in the Fact Sheet.

Regarding whether the compliance schedules are as short as possible, permit compliance schedules for CTR constituents cannot exceed the 18 May 2010 date in the SIP. For this reason, the compliance schedules in the proposed Permit require compliance with effluent limitations for CTR constituents by the required date. Compliance schedules for other constituents may extend beyond the 18 May 2010 dates, but must be as short as possible as determined by the Regional Water Board. Staff have provided late revisions that, based on additional information provided by the Discharger, generally shorten the compliance schedules in the proposed Permit. The

exception is the compliance schedule for Nitrate+Nitrite, which remains the same. The late revisions include Fact Sheet language providing the rationale for the chosen compliance schedule dates. The compliance schedule modifications were made after the proposed Order was circulated; however the modifications result in a more stringent Order.

NMFS COMMENTS

NMFS – COMMENT - 1: NMFS notes that the proposed Permit addresses expansion of the Permit to accommodate planned growth within the City of Merced. NMFS states that the proposed Permit does not address growth-inducing impacts associated with expansion of the WWTF.

RESPONSE: Population growth within the Central Valley Region poses many challenges, not the least of which is how cities and towns can expand while minimizing negative effects on natural resources. However, the potential environmental effects of new development within the City of Merced are more appropriately addressed through the General Planning and California Environmental Quality Act processes that these new developments must undergo when they are approved. The proposed Permit ensures that if new developments are approved, the City's WWTF will have adequate capacity to treat the sewage generated by the new developments.

NMFS – COMMENT - 2: NMFS is concerned that growth in the Merced area will increase use of water, and place higher demands on Merced River water to the potential detriment of the species therein.

RESPONSE: The Regional Water Board acknowledges that water supply issues are a growing concern for many municipalities. However, these issues are best addressed as new developments are approved. The California legislature agreed that this issue is of great concern, and enacted California Water Code section 10911(b), which requires that all large development projects undertake a water supply assessment as part of an environmental review.

NMFS – COMMENT - 3: Environmental aspects of urban growth are not being adequately addressed through the Tentative WDR process and that the opportunity for the applicant to address these issues may be lost.

RESPONSE: Urban growth presents a myriad of environmental concerns. Those concerns related to water quality are appropriately addressed here. However, specific development projects are entirely tentative at the current time and could not be adequately considered through this approval process. There will be a multitude of opportunities to address the environmental effects of these projects with a greater level of specificity as they are considered for approval.