

**Item 15
Response to Comments
for
Tentative Order Dated February 28, 2008**

City of Avalon
Avalon Wastewater Treatment Facility
(CA0054372, CI-0066)

(This Table summarizes the comments received from interested parties with regard to the above-mentioned facility's Tentative Permits. Each comment presented has a corresponding Regional Board's response and/or corresponding action taken.)

No.	Comment	Agree	Disagree	Reply	Action Taken
Letter from City of Avalon and Letter from United Water Services Dated on March 28, 2008					
1	<p>Order Pages 1 and 5 - City of Avalon (City) does not believe that United Water Services(UWS) (or any entity that in the future may provide contract operations services to the City) should be listed as a "co-permittee" or "Discharger" under the NPDES Permit. We request that the City of Avalon alone be listed as permittee.</p> <p>Placing UWS as co-permittee creates many legal ambiguities, issues, and, potentially, very serious problems for all parties. UWS has no ownership in the Facility. The contractual relationship with the UWS is not a partnership with equal responsibilities for the City and UWS relative to the permit.</p> <p>Listing UWS as a co-permittee and collectively grouping the City of Avalon and UWS as "Discharger" results in diffusion of authority and responsibility as to the obligation for permit compliance. UWS provides various services for Avalon in regards to operation of the Facility pursuant to a contract that lists specific responsibilities and excludes others. Collectively naming Avalon and UWS as "Discharger" blurs the responsibility.</p> <p>In addition, the NPDES permit is a valuable asset owned by the City and should not be impliedly given to UWS. The City of Avalon's contract with UWS does not confer on UWS any ownership interest in City property. Making UWS a co-permittee could result in the diversion of a significant asset of the City of Avalon (the NPDES</p>	X		Both the City of Avalon (City or Avalon) and United Water Services (UWS) requested that the City of Avalon should be the sole permittee. Regional Board staff agree with their arguments and recognizes that the UWS only provides services for the City of Avalon through a contract that lists specific responsibilities and excludes others. This contractual relationship does not imply any ownership given to UWS in term of either the NPDES permit or the City property, such as the treatment plant. Therefore, the UWS as a co-permittee is removed from the Avalon permit.	Changes have been made.

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	<p>Permit) to a third party, i.e., UWS.</p> <p>At a minimum, if the Board does not accept the above objections (see the first comment from the City of Avalon), some language should be added to that clearly identifies UWS being named "as the contract operator of Avalon's facilities and solely to the extent of UWS's contractual rights and responsibilities" or using other similar language of explanation, differentiation, and limitation of UWS's interest in the permit.</p>				
2	<p>Order Pages 1 and 5 - The Avalon facility has historically had flows well below 1 MGD. Seawater intrusion into the collection system in the city has been reduced through a slip-lining project that has recently been completed, and flows have been reduced even further. We understand that the designation as a "major facility" could be changed if the rated peak flow of the plant is reduced to below 1 MGD. We may wish to consider reducing the maximum flow allowed if this would change the designation of the facility.</p>	X		<p>Regional Board staff reevaluated the Avalon Wastewater Treatment Facility (Avalon Facility) based on the design flow of 1.2 mgd and the fact that the City has no Pretreatment Program nor significant industrial users in its service area. This reevaluation used the NPDES Permit Rating Work Sheet following appropriate procedures. The result indicated that the Avalon Facility has a score of less than 80 and should be reclassified as a MINOR facility. Therefore, the designation of the Avalon Facility has been changed to MINOR in the Avalon tentative permit.</p>	<p>Change has been made</p>
3	<p>Page E-3,4 b and c - Because Catalina Island is 25 miles away from the Coast, the volume of the discharge (average flow 0.6 MGD) is minor compared with other dischargers in Los Angeles and Orange Counties, and the cost to the City would be significant, we are requesting exclusion from participation in the regional monitoring component of the Model Monitoring Program.</p>		X	<p>Although the discharge from the Avalon Facility is well below 1 mgd, it is the only treatment plant at Catalina Island. The tentative permit already excludes the requirement of conducting special studies because the Avalon Facility is a small discharger. However, Regional Board staff believe that the City should participate in the regional monitoring activities that will collect information for the assessment of the impact of discharged wastewater on the Santa Monica Bay and its vicinity, to the best of its ability.</p>	<p>None necessary</p>
4	<p>Page E-9 - The receiving water monitoring stations are identified on this page. The City is requesting a change in the designation of the stations to reflect the actual physical location and the order in which the stations occur i.e. RWS1 – RWS6.</p>		X	<p>The designation of the receiving water stations follows the requirement in CIWQS. The order of station numbers follows the sequence of stations (R-A through R-F) in the existing permit. The designation of the stations therefore will not be changed.</p>	<p>None necessary</p>

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5	Page E-16 - The test screening requirements under Frequency of Whole Effluent Toxicity Monitoring Requirements involves three consecutive months of "most sensitive species" screening during 2008. Because the City conducted effluent toxicity monitoring in late 2007, we request postponing the three consecutive month test screening to follow the 24 month schedule currently in effect, with the next testing scheduled in January, February and March, 2010.		X	The City does not have to conduct the chronic toxicity test screening using three marine species for all three consecutive months in 2008. Pursuant to this requirement, the City needs to only conduct one suite of the re-screening if the test results show that the same species is the most sensitive. Therefore, the requirement of conducting the chronic toxicity test screening (re-screening) in 2008 remains unchanged in the Avalon permit.	None necessary
6	Page E-23, Table 5 – The City would like to obtain clarification on transmissivity. Was this intended to be conductivity?		X	Transmissivity is different from conductivity. Transmissivity is the percent light transmission. The profiles show percent light transmission data from all sampled depth at all profiling locations.	None necessary
7	Page E-26, 2 and E-27, D - Due to the cost associated with this testing and the small size of the wastewater facility compared with other major dischargers in Los Angeles and Orange Counties, the City is requesting exclusion from participation in this monitoring.		X	The tentative permit reduces the monitoring frequency for water quality of the nearshore/offshore receiving water from monthly to quarterly. The fund saved through this frequency reduction can be redirected to support Regional Benthic Survey and Kelp Bed Monitoring Program.	None necessary
8	Page F-9 - The City is requesting a reduction in the detailed wording of the Compliance Summary to indicate that violations have occurred during 2004 – 2007 and an enforcement letter was issued on July 20, 2007.		X	The compliance Summary is an essential portion of the NPDES permit and is consistently requested by the Board Members for information only purposes. The simplified language suggested by the City is not appropriate. It can not indicate the nature and extent of the violations.	None necessary
9	Page F 17, 4 – Although TCDD was detected once previously in the Avalon effluent, the City is requesting that the monitor frequency remains to be annually due to the cost of the analyses.		X	Reasonable Potential Analyses showed that TCDD has reasonable potential to exceed the water quality standard. As a result, an effluent limitation was prescribed for TCDD. This is the reason why the monitoring frequency has been increased from annually to semiannually in the tentative permit. Therefore, the monitoring frequency for TCDD can not be reduced.	None necessary

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Letter from Heal the Bay Dated on March 28, 2008					
1	<p>Performance Goals and Limits</p> <p>Performance goals are extremely poor regulatory mechanisms, and thus, should be replaced with enforceable effluent limitations. Performance goals “are not considered as enforceable limitations or standards” (Tentative Permit at F-25), and an investigation of toxicity must be initiated only when an exceedance persists in “three successive monitoring periods” (Tentative Permit at F-26). What happens in the event that the Permittee exceeds a performance goal every other monitoring period? Under the Tentative Permit, the discharger may be exceeding Ocean Plan water quality objectives without being held accountable. How many performance goals were exceeded in the last permit cycle? What actions, if any, were taken by the Regional Board and the Permittee? Plainly, performance goals are extremely ineffective and should be replaced with effluent limitations that prevent backsliding and will ensure the Permittee takes appropriate actions to meet water quality objectives.</p>		X	<p>Regional Board staff disagree. The Ocean Plan allows the use of dilution factors, thus, in most cases, the calculated limits are orders-of-magnitude higher than the actual levels in the discharge. Effluent limitations alone will not be effective as a control mechanism. For constituents having reasonable potential to exceed water quality objectives or having inconclusive results in reasonable potential analyses, effluent limitations were prescribed. In most cases, for constituents with effluent limitations, the performance goals with much lower values than effluent limitations were also prescribed. The performance goals only require the discharger to maintain its current level of treatment. They are not enforceable limits. When exceeded, they serve as triggers to the discharger to investigate the cause so that proper operation of the plant is maintained and source control measures are properly implemented. The exceedance of any performance goal is not expected to have substantial impact on the ocean environment. However, the use of performance goals supports the antidegradation policy in that it at least maintains the level of pollutants discharged to the receiving water.</p>	None necessary
2	<p>If the Regional Board fails to replace these ineffective performance goals with effluent limitations, it should, at a minimum, modify the performance goals in the Tentative Permit that allow effluent quality to <i>decrease</i>. Several performance goals in the Tentative Permit have increased from the values in Order No. R4-2002-0094. For example, performance goals for silver, phenolic compounds, di-n-butyl-phthalate, ethyl benzene, toluene, benzene, bispthalate, carbon tetrachloride, and a number of other compounds are all higher in the Tentative Permit.</p> <p>Also of note, for constituents where monitoring data have consistently shown nondetectable levels (less than 20 percent</p>		X	<p>Regional Board staff disagree. The Performance Goal calculation used in the tentative Order is different from that used in the current Order No. R4-2002-0094. This Performance Goal calculation follows protocols used in the recently adopted NPDES permit for the County Sanitation District of Los Angeles County’s Joint Water Pollution Control Plant, Order No. R4-2006-0042. To take the advantage of the minimum levels listed in the 2005 Ocean Plan and to maintain consistence in the future NPDES permit with the ocean discharge, five times the minimum level (instead of the reporting limit used in the current permit) was prescribed as performance goal for some constituents consistently having</p>	None necessary

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	<p>detectable data) over the designated monitoring period, the Regional Board sets the performance goal at five times the detectable limit (Tentative Permit at F-26). This calculation approach is inappropriate. The more conservative approach would be to set the performance goal <i>at the reporting limit</i>. Furthermore, why are there no performance goals established for daily maximums or instantaneous maximums? Clearly, the performance goal calculation methodology is inappropriate, as it allows a discharger to decrease their effluent quality and does not allow for the most protective approach.</p>			<p>nondetectable data (see the tentative permit for details). Because of this new approach, some performance goals are higher in the tentative permit. Once again, the performance goals are not limits. When exceeded, they serve as triggers to the discharger to investigate the cause so that proper operation of the plant is maintained and source control measures are properly implemented. Since effluent limitations are usually orders-of-magnitude higher than minimum levels, the use of minimum levels as performance goals are overly conservative. This application may result in many reported exceedances of performance goal that imply little or no environmental impact. Performance goals established for daily maximum or instantaneous maximum could be far more higher than those established for monthly average. Therefore, there are no performance goals for daily maximum or instantaneous maximum.</p>	
3	<p>Influent and Effluent Monitoring Constituents and Frequencies</p> <p>For the majority of monitoring constituents, the minimum sampling frequency of effluent monitoring is listed as annual. While this frequency may be in line with the current permit, it is extremely important to note that variability will not be captured by annual monitoring. Many of these contaminants are measured either quarterly or monthly in the Hyperion Wastewater Treatment's current permit (Order No. R4-2005-0020 at T-19). This higher frequency of monitoring helps to ensure that exceedances are detected. We strongly recommend increasing the monitoring frequency to at least quarterly.</p> <p>In addition, only six constituents are being monitored in the facilities influent. In comparison, Hyperion is measuring 87 different parameters (Order No. R4-2005-0020 at T-15). Influent monitoring is important in order to determine compliance with NPDES permit conditions, assess treatment plant performance,</p>		X	<p>The Avalon Facility has historically had a daily flow well below 1 mgd and there is no Pretreatment Program with the facility. On the contrary, the Hyperion Treatment Plant discharges an average daily flow no less than 320 mgd and has one of the largest Pretreatment Programs in the nation. Therefore, it is not appropriate to compare the Avalon Facility with the Hyperion Treatment Plant. Considering the size of the Avalon Facility and the fact that no industrial users are in the Avalon service area, the prescribed monitoring program for the influent and effluent in term of monitoring frequency and parameters is reasonable.</p>	None necessary

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	and assess effectiveness of any pretreatment programs. Is there an adequate reasons as to why this permit has so few influent monitoring constituents?				
3	<p>Chronic Toxicity Limits</p> <p>The Tentative Permit provides a 61 TUc “trigger” in accordance with State Board Order NO. WQO 2003-0012 which defers the issue of numeric chronic toxicity limits until a later date. The Regional Board should encourage the State Board to develop an appropriate numeric chronic toxicity limit as soon as possible. Too many major NPDES permits have gone forward without numeric effluent limits for chronic toxicity. As you would likely agree, toxicity limits are the safety net for NPDES permits because permits do not require monitoring or have limits for all constituents that can cause receiving water toxicity. An effluent limit for toxicity would help protect beneficial uses and meet the narrative toxicity objective set forth in the 2005 California Ocean Plan. Toxicity testing is the safety net for NPDES permits because permits do not require monitoring or have limits for all constituents that can cause receiving water toxicity.</p>		X	<p>Regional Board staff disagree. The chronic toxicity value of 61 TUc is <u>not</u> a trigger, it is a numeric enforceable limitation. Based on the 2005 Ocean Plan, the tentative permit has prescribed a chronic toxicity effluent limitation of 61 TUc. In addition, a chronic toxicity performance goal was also prescribed based on the performance data reported in the previous permit cycle. The chronic toxicity performance goal will provide an additional safety net for this NPDES permit.</p>	None necessary
4	<p>Fecal Indicator Bacteria and Fish and Mammal Monitoring</p> <p>Several key elements of a monitoring and reporting program do not appear to have been included in the tentative permit, and should be added to ensure that the discharge poses no threat to humans or aquatic life in the region. The tentative permit requires that the discharger monitor nearshore fecal indicator bacteria monthly, this includes the outfall point, station RSW-002 (E-22). Monitoring monthly will not capture sample variation. There is no reason why this station should not monitored at least weekly. Furthermore, the tentative permit states that Santa Monica Bay Restoration Commission’s Comprehensive Monitoring Program includes monitoring elements such as bird and mammal monitoring and fish monitoring, but that these programs have yet</p>		X	<p>Because the actual flow from the Avalon Facility has been around 0.6 mgd, the impact on the receiving water will not be significant. Therefore, Regional Board staff believe that the monthly nearshore bacterial monitoring is appropriate. In addition, the tentative permit requires the discharger to collect four additional weekly samples if the monthly bacterial sampling exceeds the receiving water bacterial standards.</p> <p>The implementation of the Santa Monica Bay Restoration Commission’s Comprehensive Monitoring Program involves regulatory agencies, Dischargers, stakeholders, and other interested agencies. It also requires planning, substantial</p>	None necessary

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	<p>to be fully developed and that the level of each party's participation is still to be determined (E-4). We urge the Regional Board to require this type of monitoring program, in order to determine impacts of the discharge on aquatic life. The discharger's future participation in the Comprehensive Monitoring Program may incorporate these monitoring elements, but there is no guarantee at this time.</p>			<p>funding and integral efforts from all participants. Since the Avalon Facility is not a major discharger, the tentative permit only requires the City of Avalon to participate in the Comprehensive Monitoring Program. The City of Avalon alone may not be able to implement bird and mammal monitoring, and fish monitoring.</p>	
5	<p>Plant Operation and Maintenance</p> <p>Over the years, the city of Avalon has experienced a number of infrastructure problems leading to poor water quality in the bay. We note that the tentative permit includes the following standard provisions:</p> <p>"The Discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Discharger to achieve compliance with the conditions of this Order. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems that are installed by a Discharger only when necessary to achieve compliance with the conditions of this Order. (40 C.F.R. § 122.41(e))"</p> <p>We urge the regional board to require sewer and POTW maintenance activities be included in the discharger's annual report.</p>	X		<p>The suggested provisions have been included in Attachment D (Standard Provisions), Page D-1. Regional Board agree that sewer and POTW maintenance activities should be reported in the discharger's annual report. Section 2 (Annual Summary Report) on Page E-31 has been revised as follows:</p> <p>"...The annual report shall also contain an overview of any plans for upgrades to the treatment plant's collection system, the treatment processed, or the outfall system, <u>and sewer and POTW maintenance activities.</u> ..."</p>	<p>Changes have been made</p>