



CVCWA Central Valley Clean Water Association

Representing Over Sixty Wastewater Agencies

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April 23, 2010

Submitted Via U.S. Mail and Electronic Mail

Katie Bowman
Regional Water Quality Control Board,
Central Valley Region
415 Knollcrest Drive, Suite 100
Redding, California 96002

kbowman@waterboards.ca.gov

Re: Central Valley Clean Water Association's Comments on the Tentative Order for the Sewerage Commission-Oroville Region Wastewater Treatment Plant

Dear Ms. Bowman:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to submit these comments on the tentative waste discharge requirements for the Sewerage Commission-Oroville Region (Commission) Wastewater Treatment Plant (Tentative Order). CVCWA is a non-profit organization of agencies that own and operate wastewater treatment facilities throughout the Central Valley Region. CVCWA represents its members in regulatory matters that affect surface water discharge and land application with a perspective to balance environmental and economic interests consistent with applicable law. Accordingly, CVCWA takes interest in permit provisions adopted by the Central Valley Regional Water Quality Control Board (Regional Water Board).

For the reasons described below, CVCWA respectfully requests that you revise the proposed final Effluent Limitation for electrical conductivity (EC) to specify an annual average limitation instead of an instantaneous maximum, ensure consistency between the operative provisions of the Tentative Order and its Fact Sheet with regard to EC and remove Discharge Prohibition E.

A. The Effluent Limitation for EC Should Be Revised as an Annual Average Limitation and Should Be Consistent with the Fact Sheet

The Tentative Order includes a final effluent limitation for EC of 700 $\mu\text{mhos/cm}$ as an instantaneous maximum. (Tentative Order at p. 11, Table 6.) The Fact Sheet of the Tentative Order states that it includes “an effluent limitation for EC of the municipal water supply EC plus an increment of 500 $\mu\text{mhos/cm}$ not to exceed 700 $\mu\text{mhos/cm}$.” (*Id.* at p. F-35, emphasis omitted.) CVCWA requests that you revise the EC effluent limitation to provide for an annual average limitation in lieu of an instantaneous maximum. CVCWA also requests that you revise the Tentative Order to ensure consistency between the final effluent limitation for EC and Fact Sheet.

The effluent limitation for EC should be set as an annual average limitation instead of instantaneous maximum to protect agriculture and other beneficial uses. First, a long-term average is appropriate since salinity does not cause short-term toxic effects. Further, the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins* (Basin Plan) does not require short-term averages for EC. (See Basin Plan at p. III-3.00.) The Basin Plan incorporates the drinking water maximum contaminant levels (MCL) for EC from Title 22 of the California Code of Regulations (Title 22). (*Ibid.*) The secondary MCLs for EC are consumer-acceptance based, allow for higher short-term levels and are generally expressed as annual averages for drinking water providers. Finally, setting the effluent limitation for EC as an annual average would be consistent with the Regional Water Board’s current permitting practice. (See e.g., Regional Water Board Order Nos. R5-2009-0010 at p. 10, R5-2009-0007 at p. 10, R5-2008-0177 at p. 10.)

Although the Tentative Order’s operative provisions specify a final effluent limitation for EC of 700 $\mu\text{mhos/cm}$ as an instantaneous maximum, the Fact Sheet states that the effluent limitation is “the municipal water supply EC plus an increment of 500 $\mu\text{mhos/cm}$ not to exceed 700 $\mu\text{mhos/cm}$.” (Tentative Order at pp. 11, Table 6 and F-35, emphasis omitted.) For consistency purposes, CVCWA requests that you revise the final effluent limitation or Fact Sheet as appropriate for the discharge.

B. Discharge Prohibition E is Superfluous and Otherwise Inappropriate and Should be Removed

Discharge Prohibition E of the Tentative Order states: “The Discharger shall not cause pollution as defined in Section 13050 of the California Water Code.” (Tentative Order at p. 10.) CVCWA requests that you remove Discharge Prohibition E, as it is superfluous and otherwise inappropriate. As proposed, Discharge Prohibitions A through C of the Tentative Order already serve to prohibit the Commission’s discharge from causing pollution. Discharge Prohibition A prohibits the discharge of wastewater at a location or in a manner different from that required by the Tentative Order. (*Ibid.*) Discharge Prohibition B generally prevents the bypass or overflow of wastes to surface waters. (*Ibid.*) Discharge Prohibition C provides that neither the discharge nor its treatment may create a nuisance. (*Ibid.*)

Moreover, Discharge Prohibition E is unnecessary given the effluent limitations specified in the Tentative Order to protect water quality and implement the applicable water quality standards. (See Tentative Order at p. 11.) In accordance with state and federal law, water quality-based effluent limitations are required for any constituent in the discharge that has the reasonable potential to cause or contribute to an exceedance of a numeric or narrative water quality objective. (33 U.S.C. § 1312(a); 40 C.F.R. § 122.44(d); Wat. Code, §§ 13263(a), 13377.) Waste discharge requirements also must include any technology-based effluent limitations

necessary to meet water quality standards. (33 U.S.C. § 1311(b); 40 C.F.R. § 122.44(a); Wat. Code, § 13263(a).)

Finally, Discharge Prohibition E may subject the Commission to potential liability under the citizen suit provision of the Clean Water Act (33 U.S.C. § 1365). For example, the Regional Water Board may amend its Basin Plan to add or modify a beneficial use that applies to the Commission's discharge and implicates Discharge Prohibition E. Unless and until the Regional Water Board would reopen or reissue the Commission's permit to modify it to comply with the updated beneficial use, the Commission may be subject to citizen enforcement for violating Discharge Prohibition E.

For these reasons, CVCWA respectfully requests that you remove Discharge Prohibition E from the Tentative Order. Such removal would make the Tentative Order consistent with the discharge prohibitions typically issued by the Regional Water Board. (See Regional Water Board Order Nos. R5-2008-0154 at p. 10, R5-2008-0077 at p.10, R5-2007-0132-01 at p. 9, R5-2007-0134-01 at p. 10.)

Thank you for considering CVCWA's request that the EC limitation be revised as described in this letter and Discharge Prohibition E be removed from the Tentative Order. Please contact me at (530) 268-1338 if you have any questions.

Sincerely,



Debbie Webster
Executive Officer