

**Regional Water Quality Control Board  
Central Valley Region  
Board Meeting – 26/27/28 May 2010**

**Response to Written Comments for  
Sewerage Commission - Oroville Region - Wastewater Treatment Plant  
Tentative Waste Discharge Requirements  
5 May 2010**

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At a public hearing scheduled for 26/27/28 May 2010, the Regional Water Quality Control Board, Central Valley Region (Regional Water Board) will consider adoption of a proposed Tentative Waste Discharge Requirements (NPDES No. CA0078981) (Permit) for Sewerage Commission Oroville Region Wastewater Treatment Plant. This document contains responses to written comments received from interested parties in response to the proposed tentative Permit. Written comments from interested parties were required to be received by the Regional Water Board by 20 April 2010 in order to receive full consideration. Comments were received **after the deadline** on 23 April 2010 from:

1. Central Valley Clean Water Association (CVCWA) (received 23 April 2010)

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

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**CENTRAL VALLEY CLEAN WATER ASSOCIATION (CVCWA) COMMENTS**

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**CVCWA – COMMENT #1: Page 11. 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 request 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 Face 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-3.0). 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 eg., 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  $\mu\text{mhos/cm}$ ." (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.

*Request: Modify the effluent limitation for EC to be evaluated as an annual average not to exceed 700  $\mu\text{mhos/cm}$ , rather than an instantaneous limitation not to exceed 700  $\mu\text{mhos/cm}$ .*

**RESPONSE:** Central Valley Water Board staff concludes that an instantaneous maximum for EC of 700  $\mu\text{mhos/cm}$  is over-protective of the beneficial uses outlined in the Basin Plan. Therefore, the tentative Order will be modified to evaluate the effluent limitation for EC as a monthly average not to exceed 700  $\mu\text{mhos/cm}$ . Monthly averaging of EC should be more protective of water quality than annual averaging period as requested by CVCWA.

**CVCWA – COMMENT #2: Page 10. Discharge Prohibitions 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 cause 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 an technology-based effluent limitations necessary to meet water quality standards.

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.

*Request: Remove Discharge Prohibition E from the tentative Order.*

**RESPONSE:** Central Valley Water Board staff concurs that Prohibition E of the Tentative Order is unnecessary given the Discharger is subject to Section 13050 of the California Water Code.

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