



CVCWA Central Valley Clean Water Association

Representing Over Sixty Wastewater Agencies

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December 31, 2008

Mr. Jim Marshall
Central Valley Regional Water Quality Control Board
11020 Sun Center Dr., Suite #200
Rancho Cordova, CA 95670-6114
jdmarshall@waterboards.ca.gov

Dear Mr. Marshall:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to comment on the tentative Waste Discharge Requirements for the Maxwell Public Utilities District's wastewater treatment plant (Maxwell WWTP) (Tentative Order). CVCWA represents the interests of more than 60 wastewater agencies in the Central Valley in regulatory matters related to water quality and the environment.

CVCWA offers the comments on the Tentative Order in the spirit of ensuring the reasonable regulation of water quality and protection of beneficial uses under applicable law. For the reasons explained below, CVCWA respectfully requests that the Regional Water Board remove the groundwater limitation based on Resolution No. 68-16. Further, CVCWA notes that it is unable to provide comments on the Fact Sheet as it pertains to water quality-based effluent limits (WQBELs) for pathogens. The fact sheet appears to be missing text that contains findings for such limits.

A. The Tentative Order Includes an Inappropriate Groundwater Limitation Based on Resolution No. 68-16

The Tentative Permit includes the following groundwater limitation:

Resolution No. 68-16 requires that the Discharger provide best practicable treatment or control [BPTC] prior to a discharge to groundwater. If monitoring of the groundwater indicates that the discharge has caused an increase in constituent concentrations, when compared to background, the Discharger is required in Section VI. C.2.b of this Order to conduct a study of the extent of groundwater degradation. (Tentative Order at p. 14.)

Resolution No. 68-16 is the *Statement of Policy with Respect to Maintaining High Quality of Waters in California* adopted by the State Water Resources Control Board (State Water Board). Resolution No. 68-16 applies only where the receiving water is of higher or better quality than the applicable objective in the water quality control plan. (See *In the Matter of the Petition of the City of*

Lompoc (Lompoc Order), Order No. WQ 81-5 at p. 7 (when receiving water is better than water quality objectives, limits established must be consistent with Resolution No. 68-16.)

The State Water Board has confirmed this basic principle in other precedential water quality orders as well, including *In the Matter of the Petition of San Luis Obispo Golf and Country Club* (San Luis Obispo Order) WQ 2000-07. In the San Luis Obispo Order, the State Water Board applied Resolution No. 68-16 to limits for TDS and chloride. (San Luis Obispo Order at pp. 8-14.) This was because the ambient background for the two constituents was of better quality than the applicable water quality objective. (*Ibid.*) The State Water Board declined to apply Resolution No. 68-16 to the limits for sodium, as the levels of sodium in the groundwater exceeded the applicable water quality objective. (*Id.* at pp. 12-13.)

Resolution No. 68-16's requirement to use BPTC applies only when the ambient groundwater quality is better than the applicable water quality objective. "State Water Board Resolution 68-16 allows some degradation of high quality water if the discharge is required to meet waste discharge requirements which will result in the 'best practicable treatment or control' of the discharge and will not result in water quality less than that prescribed in the policies." (San Luis Obispo at p. 10.)

The Tentative Order contains neither findings nor data confirming that the ambient groundwater quality at issue exceeds any applicable water quality objectives. Rather, the Tentative Order requires the Maxwell WWTP to use BPTC (and potentially conduct a follow-up study) *regardless of the ambient groundwater quality*. This ignores the limited application of Resolution No. 68-16 as clarified in State Water Board precedent. Therefore, the Regional Water Board should remove the groundwater limitation based on Resolution No. 68-16 (i.e., Groundwater Limitation no. 2) from the Tentative Order.

B. The Fact Sheet of the Tentative Order Is Missing Findings Related to WQBELs for Pathogens

The fact sheet for the Tentative Order appears to be missing text related to WQBELs for pathogens. The findings for such limits begin at page F-23 of the Tentative Order and continue to page F-25. However, nearly two-thirds of the discussion on page F-24 of the Tentative Order seems to be absent. CVCWA is thus unable to determine whether it should comment on the findings for the WQBELs for pathogens.

CVCWA appreciates your consideration of our comments on the Tentative Order for the Maxwell WWTP. Please contact me if you have any questions on the issues raised.

Sincerely,



Debbie Webster, Executive Officer
Central Valley Clean Water Association

c: Carmen Mason – Maxwell PUD