

**Appendix B**  
**Comment Letters**

July 14, 2014

VIA EMAIL: [dwhitworth@waterboards.ca.gov](mailto:dwhitworth@waterboards.ca.gov)

Derek Whitworth,  
San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Subject: San José-Santa Clara Regional Wastewater Facility Comments on Tentative Order:  
NPDES Permit No. CA0037842, Regional Water Quality Control Board Order No.  
R2-2014-00XX

Dear Mr. Whitworth:

The City of San José (City), on behalf of the San Jose/Santa Clara Water Pollution Control Plant, a joint powers authority, but more commonly referred to as the San José-Santa Clara Regional Wastewater Facility (Facility), respectfully submits the following comments regarding the Tentative Order for NPDES Permit No. CA0037842. The City applauds the revised format of the permit for being more concise and easier to understand. The City also appreciates the cooperative relationship between Water Board and City staff that contributed to development of this Tentative Order.

The Facility submits the following four comments:

1. Pg.4, Footnote 3 to Table 4, Total Residual Chlorine.

**Comment:** The second sentence of footnote 3 reads:

“The Discharger shall report for each day the maximum residual chlorine concentration observed following dechlorination using all values measured during that day. However, if monitoring continuously, for the purpose of mandatory minimum penalties required by Water Code section 13385(i), compliance shall be based only on discrete readings from the continuous monitoring every hour on the hour.”

This language contains a slight modification from previous permit orders that will cause the Discharger to report positive residual chlorine readings at least weekly resulting from meter maintenance, power surges, and other occurrences that may result in verifiable false-positive readings. Previous orders recognized this by requiring regular reporting of only the top-of-the-hour readings. Facility maintenance staff has been trained to execute meter calibration and maintenance at times other than the top-of-the-hour as a means to quickly verify the veracity of any recorded exceedance. The Facility reviews continuous total residual chlorine readings at least monthly and retains readings for inspection in any case. Any anomalous readings during the month are investigated and confirmed as either real or false-positives. This new permit requirement to report at least four maintenance-related exceedances per month serves no useful purpose and provides a Discharger with a strong incentive to discontinue use of continuous on-line meters.

**Recommendation:** Change the second sentence in footnote 3 to acknowledge that routine, infrequent, and brief false-positive readings due to verifiable events may be excluded from the maximum daily reporting requirement as follows:

“The Discharger shall report the maximum residual chlorine concentration observed following dechlorination on a daily basis after evaluation of maintenance logs, operations logs, back-up meters (if available), and other documentation to screen out false-positive readings due to maintenance and calibration actions, power surges, probe malfunction, or other verifiable events that may have caused a false-positive.”

2. Pg.6, Section V.B.1. Dissolved Oxygen.

**Comment:** The last sentence is not complete. It ends with the words, “...the discharge shall ...”

**Recommendation:** The complete sentence should read: “When natural factors cause concentrations less than that specified above, the discharge shall not cause further reduction in ambient dissolved oxygen concentrations.”

3. Pg. E-8, Table E-4, Receiving Water Monitoring.

**Comment:** The Facility already participates in the regional monitoring program (“RMP”) financially and through active participation on a number of RMP workgroups and committees. Furthermore, the Facility has provided staffing, logistical support, and technical expertise on a number of RMP special studies since the inception of the RMP in 1993. The RMP samples for all of the required parameters in Table E-4, the full list priority pollutants, general water chemistry, and a number of other pollutants of concern. The comprehensive receiving water monitoring conducted by the RMP over the past two decades provides information about the effect of the effluent in the receiving water and the condition of the Bay in a much more beneficial way than the piecemeal monitoring

approach this new requirement seems to move towards. This new requirement for quarterly grab sample monitoring of receiving water immediately downstream of the Facility outfall for salinity, temperature, pH, and total ammonia will not fully characterize the receiving water for these parameters unless the grab sample collection is targeted to capture a range of conditions. Each of the listed parameters can vary with tidal stage, season, or both. Salinity will vary greatly over a period of hours with the tide, while temperature will vary seasonally. Total ammonia and pH will vary with both the season and the tide. Decades of effluent monitoring for conductivity (which can be used to calculate salinity), temperature, pH, and total ammonia have demonstrated that these parameters are extremely consistent in Facility effluent. Furthermore, the Facility's effluent total ammonia concentrations are among the lowest of all Bay Area POTWs. The effluent data for these parameters alone demonstrates that they are not of sufficient concern to justify this added receiving water monitoring.

**Recommendation:** Remove the requirement for quarterly grab sampling in the receiving water immediately downstream of the Facility's outfall. Since 1993, receiving water monitoring has been conducted by the RMP, which has a well established monitoring program built on scientific expertise, collaboration, and flexibility. The successful RMP model is far superior to a piecemeal receiving water monitoring approach conducted individually by a POTW.

In the event the Water Board rejects this recommendation, the Facility proposes an alternative targeted sampling approach that is specific to conditions in our immediate receiving waters: Given the strong tidal and seasonal influence in the receiving water for parameters that have been demonstrated to be extremely consistent in Facility effluent, a targeted semi-annual monitoring frequency would provide similar receiving water characterization information at half the effort and cost. This frequency would align with the semi-annual effluent characterization monitoring requirements over the course of the permit term and will result in 10 measurements in the receiving water for each parameter, equally split between wet season and dry season conditions. Furthermore, we suggest that samples be taken at alternating tidal cycles from year to year so that both samples in one year are taken during an ebbing tide and in the subsequent year, both samples are taken during a flooding tide. Annually alternating the tidal conditions under which a receiving water grab sample is collected will characterize the range of receiving water conditions (effluent dominated versus tidal dominated) over time.

4. Pgs. F-11 through F-13, Section IV.2. Exception to Shallow Water and Dead-End Slough Discharge Prohibition.

**Comment:** We urge the Water Board to grant the Facility an exception to the Shallow Water Discharge Prohibition on the basis that a net environmental benefit will be derived as a result of the discharge. The current language in Section IV.2. acknowledges that the Regional Water Board granted this exception in 1988 but was overruled by the State Water Board in 1990.

In 1990, the State Water Board acknowledged that the Facility discharge enhanced the local receiving waters by providing oxygenation and flushing, but continued to have concerns about concentrations of nutrients and metals and, was particularly concerned that the quantity of fresh water discharged may have been leading to disappearance of salt marsh downstream of the discharge. Over the intervening 24 years, the Facility has improved its treatment process and has documented a stunning reduction in concentrations of effluent metals and nutrients. Concurrently, the Facility spent over \$2 million documenting the extent of salt marsh versus freshwater marsh in Artesian Slough and Lower Coyote Creek. As acknowledged in the Tentative Order; there are now more than 470 acres of additional salt marsh, not counting over 1000 additional acres of former salt ponds now open for restoration.

Even the most cursory evaluation of the data on the biota in Artesian Slough and Lower Coyote Creek in the Facility 2013 Annual Report, Attachment B, quickly reveals that all of the beneficial uses are likely enhanced to some degree and none seem to be impaired by the Facility's discharge. While a finding of Net Environmental Benefit (NEB) will have no practical regulatory effect, it acknowledges that the Facility addressed prior regulatory concerns by installing improvements and collecting scientific data to address and evaluate those concerns. The effluent discharged by the Facility today enhances several of the beneficial uses identified in the Basin Plan and detracts from none. This should constitute a finding of NEB.

**Recommendation:** After 24 years of improved treatment coupled with significant data collection, the results are clear: the quality of Facility effluent is markedly better and the environmental health of the receiving water has measurably improved when compared to conditions that led to the finding of equivalent protection. If at some future point, Facility effluent is demonstrated to no longer enhance conditions in the Lower South Bay, the NEB finding could rightfully be revoked. In the mean time, the regulatory process is best supported by granting the NEB finding for the Facility.

Again, we thank the Water Board for its time and attention to this permit. The Facility looks forward to continuing our working relationship with the Regional Water Board, federal and state resource agencies, and other interest groups on environmental and regulatory issues. If you have any questions or comments on this submittal please do not hesitate to call Jim Ervin at (408) 945-5124.

Sincerely,

  
for Kerrie Romanow  
Director, Environmental Services Department

Director, Environmental Services Department



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Derek Whitworth,  
San Francisco Bay Regional Water Quality Control Board  
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Dear Mr. Whitworth:

The Bay Area Clean Water Agencies (BACWA) appreciates the opportunity to comment on the Tentative Order issued to the San José-Santa Clara Regional Wastewater Facility (SJ-SC RWF). BACWA is a joint powers agency whose members own and operate publicly-owned treatment works (POTWs) and sanitary sewer systems that collectively provide sanitary services to over 6.5 million people in the nine-county San Francisco Bay Area. BACWA members are public agencies, governed by elected officials and managed by professionals who protect the environment and public health.

On behalf of its member agencies, BACWA requests that the San Francisco Bay Regional Water Quality Control Board (Water Board) consider the following comment on the Tentative Order's receiving water requirements.

This Tentative Order requires quarterly grab sample monitoring of receiving water immediately downstream of the SJ-SC RWF outfall for salinity, temperature, pH, and total ammonia (pg. E-8, Table E-4, Receiving Water Monitoring). SJ-SC RWF's previous permit required that "[t]he Discharger shall continue to participate in the Regional Monitoring Program (RMP), which involves collection of data on pollutants and toxicity in water, sediment and biota of the Estuary. The Discharger's participation and support of the RMP is used in consideration of the level of receiving water monitoring required by this Order."

The RMP was formally established in 1993, at which time it replaced the piecemeal receiving water monitoring being conducted by individual dischargers. Since its inception, the RMP has proven to be successful strategy to efficiently generate receiving water data that is responsive to the water quality monitoring needs for the region through one centralized organization responsible for all the data collection and analysis. However, the SJ-SC RWF Tentative Order is moving some of the receiving water monitoring expectation back to individual dischargers. In

light of the successful model where dischargers fund the RMP to manage water quality monitoring in the San Francisco Bay it seems prudent to continue with that model rather than selectively requiring individual POTWs to begin their own receiving water monitoring efforts. BACWA is concerned where this type of hybrid model will lead as more POTWs may be required to undertake more receiving water monitoring while continuing to fund the RMP. BACWA would like to better understand the rationale for this change from the previous order and what the Water Board's intentions are going forward with permits for other POTWs.

BACWA appreciates the opportunity to comment on this Tentative Order and thanks you for considering our concerns.

Respectfully Submitted,

A handwritten signature in cursive script that reads "David R. Williams".

David R. Williams  
Executive Director  
Bay Area Clean Water Agencies

cc: BACWA Board