



CVCWA

CENTRAL VALLEY CLEAN WATER ASSOCIATION

Formerly the Central Valley Wastewater Manager's Association

Representing Over Forty Wastewater Agencies

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January 19, 2006

Mr. Kenneth Landau
Acting Executive Officer
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, #200
Rancho Cordova, California 95670

SUBJECT: *Consideration of Adoption of Waste Discharge Requirements Order for City of Tracy Wastewater Treatment Plant*

Dear Mr. Landau:

On behalf of the Central Valley Clean Water Association (CVCWA), we would like to submit the following comments in response to the Public Hearing notice for the Central Valley Regional Water Quality Control Board's (Regional Water Board) *Consideration of Adoption of Waste Discharge Requirements Order for City of Tracy Wastewater Treatment Plant*. In particular, CVCWA continues to be very concerned with the Regional Water Board staff's practice of using the *Water Quality for Agriculture, Food and Agriculture Organization of the United Nations – Irrigation and Drainage Paper No. 29, Rev. 1* ("UN Paper") to interpret the narrative chemical objective contained in the Central Valley's Water Quality Control Plan ("Basin Plan").

CVCWA's reasons for concern are as follows: 1) the proposed permit language continues to mischaracterize the agricultural water quality guidelines as expressed in the U.N.'s Paper; 2) the proposed permit ignores the State Water Resource Control Board's (State Water Board) findings in WQO 2004-0010 that requires the Regional Water Board to determine if site-specific conditions warrant the application of a numeric criterion different than the most conservative value (Own Motion Review of *City of Woodland*, WQO 2004-0010); and, 3) where non-regulatory numeric values are being used as surrogates for adopted narrative water quality objectives, the Regional Water Board must perform and/or document the analysis required under sections 13241 and 13242 of the California Water Code.

I. Mischaracterization of Agricultural Water Quality Guidelines

The *United Nations – Irrigation and Drainage Paper No. 29* was written as a field guide to evaluate the suitability of water for irrigation purposes. It was intended to provide “guidance to farm and project managers, consultants and engineers in evaluating and identifying potential problems related to water quality.” (UN, Paper No. 29, Rev. 1, Preface.) Included in that paper are water quality guidelines. In particular, Table 1 contains guidelines for several constituents for which the City of Tracy is receiving water quality based effluent limits (WQBELs). Within the UN Paper, Table 1 is described as a management tool that was developed to help “users such as water agencies, project planners, agriculturalists, scientists and trained field people to understand better the effect of water quality on soil conditions and crop production.” (UN, Paper No. 29, Rev. 1, page 7.) Table 1 was NOT developed to articulate water quality criteria for regulatory purposes under the Clean Water Act or the Porter-Cologne Water Quality Control Act. In fact, the UN Report cautions against drawing unwarranted conclusions from Table 1.¹

Unfortunately, the Regional Water Board staff declare the “Guidelines for Interpretations of Water Quality for Irrigation” to be agricultural water quality goals and uses them inappropriately to interpret the narrative chemical objective contained in the Basin Plan.² The Regional Board staff’s use of the “Guidelines” in this manner completely mischaracterizes the guidelines and the publication from which they come. Moreover, the Regional Board staff has selected the most conservative guideline values that are associated with no restriction on use and have not evaluated the applicability of the values contained in the slight-to-moderate and severe categories to the field conditions where the wastewater discharge may be used for irrigation purposes. CVCWA continues to be concerned with the Regional Board’s continued practice of mischaracterization and misuse of the UN Report in the development of NPDES permits and WDRs for wastewater agencies in the Central Valley.

II. Inconsistent with State Water Board WQO 2004-0010

The use of the “Guidelines” to establish WQBELs in Central Valley permits is not a new issue. In fact, this very practice was appealed to the State Water Board by the City of Woodland in 2003. In response to the City’s petition, the State Water Board adopted WQO 2004-0010, a precedential water quality order. Unfortunately, the Regional Water Board staff continues to ignore and disregard the State Board’s findings regarding the use of the UN Report’s guidelines for interpreting the narrative chemical objective.

¹ “..., the user of Table 1 must guard against drawing unwarranted conclusions based only on the laboratory results and the guideline interpretations as these must be field conditions and must be checked, confirmed and tested by field trials or experience.” (UN Paper No. 29, Rev. 1, page 7.)

² See City of Trace Tentative Order, Attachment F – Fact Sheet C.3.x., pages F50 – F51.

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In that order, the State Water Board reviewed the UN Report and concluded that the UN Report “makes it clear that site-specific considerations are important in assessing irrigation water suitability.” (WQO 2004-0010, page 7.) From its review of the Report, the State Water Board concluded that the most restrictive value for electrical conductivity (EC) in the report could not be interpreted as an absolute value and that the Regional Board must determine if site-specific conditions apply to the discharge that would allow for some relaxation of the value. (WQO 2004-0010, page 7.) Because the Regional Board failed to use the UN Report correctly, the State Water Board amended the City of Woodland’s permit to remove the limits derived from the UN Report and order the City to prepare special studies.

Based on our review of the tentative order for the City of Tracy’s Wastewater Treatment Plant, we fail to see where the Regional Board has followed the direction given to it by the State Water Board in WQO 2004-0010. Out of the over 100 pages that constitute the tentative order, fact sheet and additional attachments; there is approximately two pages of text that discuss salinity parameters and the application of the agricultural guidelines to the various parameters. For example, in its two paragraph discussion on TDS, the draft text states that the “recommended agricultural water quality goal for TDS...is 450 mg/L....” (Tentative Order, Attachment F – Fact Sheet, page F-50.) It further states that the 450 mg/L limit is intended to prevent reductions in crop yields. The fact sheet contains no further discussion or information on the site specific conditions that the Regional Board is supposed to consider as directed by WQO 2004-0010. When discussing chloride, the only additional information that the Regional Board provides is that the 106 mg/L used by the Regional Board is intended to protect against adverse effects from sprinkler irrigation. There is no discussion on the type of irrigation practices that usually occur in the area where the wastewater is used for irrigation purposes. Finally, the fact sheet discusses the Regional Board’s intended use of the most restrictive guideline for EC, the specific parameter at issue in WQO 2004-0010. However, the fact sheet contains none of the site specific information or considerations discussed in the State Water Board’s order.

CVCWA and its members encourage the Regional Water Board to rethink its application of the guidelines contained in the UN Report as well as the application of the State Water Board’s findings in order WQO 2004-0010.

III. Failure to Follow Sections 13241 and 13242

Finally, CVCWA must repeat again its concern regarding the Regional Water Board’s practice of using non-regulatory numeric values without performing the analysis required under sections 13241 and 13242 of the California Water Code. The California Water code requires the Regional Board to establish water quality objectives that in their judgment will ensure the reasonable protection of beneficial uses and the prevention of nuisance. When

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the Regional Board establishes water quality objectives, it is required to consider at least six public interest factors, including the environmental characteristics of the hydrographic unit under consideration, the water quality conditions that could reasonably be achieved, economic considerations and the need to develop and use recycled water. The Regional Board is also required to include a program of implementation for achieving the water quality objectives.

The use of a non-regulatory numeric value as is done within this permit is akin to establishing a water quality objective. As such, it is subject to the same provisions of the California Water Code, sections 13241 and 13242. The Regional Board can not continue to claim that it is interpreting a narrative water quality objective in order to avoid the substantive requirements of sections 13241 and 13242. The consideration of 13241 and 13242 is not inconsistent with the California Supreme Court's decision in the *City of Burbank* because the salinity standards being imposed are more stringent than federal law.³

In conclusion, CVCWA opposes the Regional Water Board's proposed effluent limit for EC in the tentative order for the City of Tracy's Wastewater Treatment Plant because it is derived from an inappropriate interpretation of the narrative chemical water quality objective. More importantly, the Regional Board's practice mischaracterizes the water quality guidelines from which it is derived, fails to follow the State Water Board's order and fails to comply with the California Water Code.

Thank you for your consideration. Please feel to call me at (530) 886-4911 if you have any questions.

Sincerely,

Warren Tellefson
Executive Officer

cc: Jim Marshall, Central Valley Regional Water Quality Control Board
Steve Bayley, City of Tracy

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³ "When, . . . , a regional board is considering whether to make the pollutant restrictions in a wastewater discharge permit *more stringent* than federal law requires, California law allows the board to take into account economic factors, including the wastewater discharger's cost of compliance." *City of Burbank v. State Water Resources Control Board*, 35 Cal.4th 613, 618.