



# CVCWA

## CENTRAL VALLEY CLEAN WATER ASSOCIATION

Formerly the Central Valley Wastewater Manager's Association

***Representing Over Forty Wastewater Agencies***

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### Via Electronic and U.S. Mail

April 25, 2005

Robert Schneider, Chair, and Members  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive No. 200  
Rancho Cordova, CA 95670-6114

SUBJECT: **REQUEST TO REMOVE AGENDA ITEM NO. 19.b FROM THE UNCONTESTED CALENDAR—WDRS FOR VALLEY SPRINGS PUD— Meeting of April 29, 2005**

Dear Chairman Schneider and Members of the Board:

On behalf of the Central Valley Clean Water Association (CVCWA), I am writing to request that the proposed waste discharge requirements (WDRs) for the Valley Springs Public Utility District, Valley Springs Wastewater Treatment Plant, be removed from the Uncontested Calendar agenda for the Regional Board meeting of April 29, 2005. (Agenda Item 19.b.) CVCWA had requested that consideration of the adoption of the WDRs be continued to a future meeting date, but we understand your staff wishes to proceed as scheduled. Therefore, CVCWA requests that the item be removed from the Uncontested Calendar to allow interested persons to provide testimony before the Board.

As proposed, the WDRs contain findings that the Basin Plan bacteria objective for groundwater applies to all waters that are designated municipal or domestic supply (MUN). (Finding No. 52.) In fact, the objective applies to those waters *used* for MUN. The Regional Board proposed an amendment to the Basin Plan that would have replaced the term “used” with the term “designated.” This amendment was tabled indefinitely by the State Water Resources Control Board in May of 2004, and thus is not currently in effect. We do not agree that SWRCB Order WQO-2003-0014 affirmed the Regional Board’s interpretation of the Basin Plan. The Order is being challenged in Superior Court. Moreover, the SWRCB tabling of the Basin Plan amendment occurred *after* the adoption of the Boys Ranch Order, which refutes any implication that the SWRCB agrees with the Regional Board’s

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interpretation. The SWRCB's most recent and most direct action was to withhold approval for the very revision the Regional Board now proposes to implement in the Valley Springs WDRs.

Inclusion of the findings proposed for the Valley Springs WDRs is of great concern to CVCWA. Through the findings, the Regional Board is attempting to change the basin plan objective through a permitting action, something it was unable to achieve through the Basin Plan amendment process. In short, the findings extend a water quality objective that currently applies to a subset of ground waters in the region to all water below the ground in the region, regardless of existing quality or actual use. This is a significant change with sweeping implications. Individual WDRs for a small discharger are not the appropriate mechanism for implementing this change. We are aware that the Regional Board staff maintains that the Regional Board has "consistently interpreted" the objective to include all groundwaters. This statement cannot be squared with either the Basin Plan record or the Regional Board's practice.

The groundwater bacteria objective was included in the Basin Plan in 1975 at the same time as several other objectives for groundwater. The groundwater objectives for both chemical constituents and radioactivity specified that they applied to groundwaters "designated for use" as domestic or municipal supply. (1975 Basin Plan at I-4-1.) The objective for bacteria, in contrast, specified its applicability to waters "used for" domestic or municipal supply. (*Ibid.*) Thus, the Regional Board clearly knew how to express an objective intended to apply to designated uses as opposed to actual uses. The Regional Board chose to apply the bacteria objective differently.

The permits issued over the years also contradict the Regional Board's statement that the objective has been "consistently interpreted" to apply to all groundwaters designated MUN. For example, until the most recent permit cycle, none of the permits issued to the cities of Vacaville and Roseville or the Sacramento Regional County Sanitation District included groundwater provisions to implement the bacteria objective. We acknowledge that the Regional Board has written waste discharge requirements (WDRs) in the last few years as if the proposed Basin Plan amendment tabled by the SWRCB was in fact already in place. The permittees, however, have objected to these decisions. If the Regional Board wishes to change the objective, it is not enough to merely "change its mind"—the Regional Board has an "affirmative duty" to conduct the analyses required under Porter-Cologne and CEQA. (See Memorandum from William R. Attwater to Regional Water Board Executive Officers, January 4, 1994.)

CVCWA objected to the proposed Basin Plan amendment before both the Regional Board and the SWRCB because the change could have very significant consequences. For example, many wastewater treatment plants utilize pond storage systems (sometimes before further treatment). There is simply no chance that water immediately below such

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ponds will be used for municipal purposes. The interpretation advanced here could well require such agencies to line all ponds or employ tertiary treatment prior to placing effluent in storage. The interpretation of the objective expressed in the WDR Findings, if applied throughout the Central Valley, may also raise significant compliance issues for dairies and other dischargers with the potential to affect groundwater quality. The costs throughout the Central Valley would be very substantial, and have never been analyzed.

Similarly, many agencies use secondary-treated effluent for irrigation of non-food crops. This water, which would not meet the 2.2 MPN standard, percolates into the ground. Again, the groundwater (and especially the shallow groundwater at the point of percolation) is seldom if ever a municipal source. Application of this interpretation to other permits could discourage reclamation or, again, require advanced treatment, for no benefit.

The adoption of these WDRs with findings 51, 52 and 53 reflects a one-size fits all "blanket" approach to setting standards via permit in the region. This is similar to the blanket designations of surface water uses under the Tributary Statement. Given its experience, the Regional Board should be familiar with the problems that result from these blanket designations in a region as diverse as the Central Valley. Consequently, such a widespread sweeping and significant change cannot be undertaken without the requisite analysis of its impacts through the Basin Plan process.

In light of the above comments, CVCWA recommends that findings 51, 52 and 53 and the groundwater limitation for coliform (F.1.a) be deleted from the proposed WDRs for Valley Springs PUD. The inclusion of these findings and the related groundwater limitation are not appropriate until such time as the Basin Plan is amended through the statutorily mandated process and approved by the State Water Board and Office of Administrative Law. Thank you for your consideration of our comments.

Sincerely,

*Original Signed by Warren Tellefson*  
Warren Tellefson  
Executive Officer

Cc: Jack Del Conte  
Wendy Wyels  
Roark Weber, Valley Springs PUD

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