



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

January 7, 2005

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

Electronic Mail: byee@waterboards.ca.gov

SUBJECT: *Triennial Review for the Sacramento River and San Joaquin River Basins*

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 recently released Notice of Public Workshop concerning the Triennial Review of the Sacramento River and San Joaquin River Basins. As requested in the Notice, CVCWA has provided comments on the issues already identified by staff and additional comments on currently unidentified issues that are of interest to CVCWA and its members. We appreciate the opportunity to submit such comments for consideration.

Overall, CVCWA believes strongly that the Basin Planning process is a key and essential function of the Regional Water Quality Control Board. While we realize that state funding for Basin Planning functions has been seriously neglected for many years, this in no way alters the importance of maintaining and amending the Basin Plan as necessary to ensure the highest water quality within the region that is reasonable. Changes in circumstances, time, and science all require that the Basin Plan be reviewed and updated on a regular basis – henceforth the triennial review requirement contained in the federal Clean Water Act. Given the importance of the Basin Plans to the system of water quality regulation, wastewater agencies, industry, agriculture, the State and Regional Boards and others must all work together to find creative solutions for updating these vital documents. Because of their importance, CVCWA and its members continue to look toward establishing

mutually agreeable partnerships among interested parties and the Regional Board to update the Basin Plans on key and important issues. In the meantime, CVCWA submits the following comments for consideration in the triennial review process.

I. Issues Identified in Notice of Public Workshop

Effluent Dominated Waterbodies, Drinking Water Policy, TMDLs: The first three issues identified by the Regional Board are currently being addressed through processes or programs separate from the Triennial Review. While CVCWA agrees that all three issues are critically important and must be addressed by either the State Water Board, Regional Board or both, it may not be appropriate to list such issues as things that should be addressed through the triennial review process. Instead of including them on the triennial review's list of issues to address, the Regional Board should consider establishing a separate category for related issues that are being addressed through other means. By separating out these items, the triennial review list can remain true to its original intent, which is to evaluate existing water quality standards and identify new issues of concern.

Bacteria Objectives: CVCWA believes that proper development of bacterial objectives is an important basin planning need. CVCWA encourages the Regional Board to carefully review any newly proposed bacteria objectives in light of section 13241 of the Water Code, which requires consideration of a number of factors include economics and the ability to meet the proposed objective through actions by all controllable sources. Furthermore, CVCWA believes that the Regional Board's permit process should not adopt water quality based effluent limitations in the absence of adopted water quality objectives. In the case of bacteria, many CVCWA agencies are receiving permit effluent limitations to implement the equivalent of tertiary treatment, a standard of protection for which there are no adopted water quality objectives. In many instances, the Regional Board relies on Department of Health Services regulations and/or guidelines to establish permit effluent limitations. CVCWA strongly believes that instead of relying directly on another agencies' regulations and guidelines to interpret vague narrative water quality objectives, the Regional Board should adopt numeric water quality objectives pursuant to Porter-Cologne. In other words, the Regional Board should adopt bacteria objectives that are consistent with the needed level of protection and subject to the consideration of factors required by Water Code section 13241. Once water quality objectives are properly adopted, then the Regional Board can better determine the appropriate water quality based effluent limitations necessary to meet and maintain the adopted water quality objectives.

Diazinon Objectives: CVCWA supports the re-evaluation of the recently adopted water quality objectives for diazinon in the Sacramento and Feather Rivers in light of new information discovered in May of 2004. Since the Regional Board adopted the diazinon water quality objectives, based upon Department of Fish and Game criteria, on October 16, 2003, a scientist at the United States Geological Survey (USGS) discovered that a major error was made in a key study on which the diazinon water quality objectives are based. In

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short, a decimal point was misplaced, which resulted in a toxicity test for *Gammarus fasciatus* being reported as 0.2 ug/L when it should have been 2 ug/L. The reporting error by a factor of 10 greatly changes the actual levels for which diazinon is considered toxic and therefore impacts the adopted water quality objective. Considering the error that has occurred, it is entirely appropriate and necessary that the Regional Board amend or delete the Basin Plan water quality objective for diazinon.

Groundwater Survey and Control Policies for Discharges to Groundwater: The Regional Board identified this as a medium priority issue during the 2002 Triennial Review process. At the time, the Regional Board stated that stakeholder groups should be convened to identify management measures that would help to reduce nitrates and salts leached to groundwater. The Regional Board also stated that it should develop a program to address groundwater issues. However, due to the issue's status as medium priority and the lack of funding, neither action has been taken since the last triennial review process. As groundwater issues continue to remain a key issue in waste discharge requirements for many Central Valley wastewater agencies, CVCWA supports the identification of this issue in the triennial review process and encourages the Regional Board to designate it as high priority. Once designated as a high priority, CVCWA encourages the Regional Board to work with the State Water Board to accomplish this task.

To develop such a policy at the Regional Board and/or State Board level, CVCWA supports a process similar to that currently under way for drinking water. There are many stakeholders who use and have the potential to impact groundwater, so there should be a collaborative process for developing a scientifically sound policy for the Central Valley and the State. Developing a sound policy would be far preferable to the Regional Board's current practice of establishing ad hoc policy on a permit-by-permit basis. CVCWA is also concerned that in the absence of a sound policy, the Regional Board will embark on a path of interpreting and re-interpreting narrative groundwater objectives much in the same way as is occurring for surface water objectives. This process results in the application of non-regulatory advisory criteria as objectives that have not been adopted pursuant to Porter-Cologne. More specifically, it results in the use of de facto numeric water quality objectives that have not been evaluated under section 13241 of the Water Code.

Ammonia & Chlorine Objectives: To the extent that the Regional Board intends to continue its current practice of adopting effluent limitations in wastewater permits for ammonia and chlorine, objectives for such constituents should be properly developed and adopted according to the law. Otherwise, the Regional Board is left with interpreting narrative objectives and using un-adopted water quality criteria that may or may not be applicable to the water body in question. Further, on-line real-time continuous monitoring and report requirements should have provisions to address periods of analyzer downtime due to routine and non-routine maintenance activities to avoid minimum mandatory penalties due to instrumentation issues. As stated previously in other comments, the Regional Board should adopt all water quality objectives in accordance with Porter-Cologne and especially section 13241 of the Water Code and its mandated considerations.

Beneficial Use Identification: The de-designation of beneficial uses is in many cases interrelated with effluent dominated waterbodies issues and requires a Use Attainability Analysis (UAA). Similarly, to the extent that the Regional Board intends to consider adding new use designations, a UAA must also be conducted for such additions. These changes in use designations cannot occur effectively in the absence of a clear and efficient process for conducting UAAs for the de-designation of improper uses.

II. New Issues Not Identified in the Notice of Public Workshop

In addition to the issues already identified in the Notice of Public Workshop, CVCWA recommends that the Regional Water Quality Control Board add the following issues to the triennial review list for consideration and discussion.

Develop Policy for Conducting Use Attainability Analyses: In the State Water Board's precedential order *In the Matter of the Review on Own Motion of Waste Discharge Requirements for Vacaville's Easterly Wastewater Treatment Plant* (WQO-2001-0015), inappropriate beneficial uses must be de-designated through a Use Attainability Analysis (UAA) and a Basin Plan Amendment. However, even though the State Water Board directed the Regional Board to conduct such a UAA in the case of Vacaville, the process has been difficult and inefficient. Considering the policy direction mandated by the State Water Board, the Regional Board should work collaboratively with interested parties to develop a process for conducting UAAs. By having a set process in place, UAAs can be more efficient and cost effective for both designating and de-designating beneficial uses.

Remove Incorporation by Reference of Secondary Maximum Contaminant Levels: The water quality objective for chemical constituents incorporates by reference primary and secondary maximum contaminant levels (MCLs), which are drinking water standards adopted by the Department of Health Services. Both apply to drinking water at the tap as it is delivered by drinking water agencies to consumers. Drinking water providers are required to meet primary MCLs; however, the secondary MCLs are recommendations based on consumer acceptance levels and are therefore unrelated to human health and welfare or the protection of aquatic life. For example, the secondary MCL for iron is set at a level to protect laundry from staining. As set forth in the Basin Plan, the secondary MCLs apply directly to the receiving water (i.e. rivers, streams, lakes, EDWs, etc.). Such an application does not account for the fact that all drinking water must be filtered (or meet a specific turbidity requirement) prior to use by consumers for drinking water. In other words, rivers and streams that are sources of drinking water must meet the same levels for some constituents as tap water even though such levels are not related to human or aquatic health. In addition, the same drinking water will be filtered, which will remove the constituent of concern to an acceptable level, prior to being used by consumers. The application of such secondary MCLs to natural waterways is inappropriate when one considers the aesthetic basis for secondary MCLs and the treatment that will occur prior to use by consumers. If there are specific secondary MCLs that the Regional Board deems

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necessary to protect uses of the Region's waterways, the Regional Board should adopt water quality objectives for those constituents pursuant to Porter-Cologne.

Remove Non-Detect Standard for Organochlorine Pesticides: The pesticide objective for the Sacramento and San Joaquin River Basins includes an objective for chlorinated hydrocarbon pesticides that states that they "shall not be present in the water column at concentrations detectable within the accuracy of analytical methods approved by the Environmental Protection Agency or the Executive Officer." (Basin Plan, III.6.00, 1998.) This provision was adopted into the Basin Plan in 1975 and was classified as an interim objective by the Regional Board due to a lack of information regarding tolerance levels. (*A Review of the Administrative Record for the Central Valley's Water Quality Control Plan 1975-1994*, September 2003, pg. 32.) By classifying the pesticide objective as an interim objective, the Regional Board intended develop specific numeric objectives as part of the triennial review process. (*Review* at pg. 32.) However, such follow-up actions have never occurred. As a result, the objective fluctuates with the accuracy of analytical methods rather than being based on the appropriate level to protect the uses of the waterways of the Sacramento and San Joaquin River Basins. Consequently, the non-detect standard should be removed from the Basin Plan.

Three Species Chronic Tests: As part of the triennial review, the Regional Board should identify the need for a policy that explains how the Regional Board intends to interpret three species chronic toxicity tests to determine if the narrative "no toxics in toxic amounts" water quality objective has been violated. Currently, Regional Board staff are establishing different standards in different permits therefore creating confusion and uncertainty amongst the various wastewater agencies through the Central Valley.

Add Reporting Provisions for Continuous pH Monitoring: The Basin Plan should provide the ability to report on-line real-time continuous pH monitoring consistent with federal effluent guidelines and standards found at 40 CFR Part 401.17 *pH Effluent Limitations Under Continuous Monitoring*:

- (a) Where a permittee continuously measure the pH of wastewater pursuant to a requirement or option in a National Pollutant Discharge Elimination System...excursions from the range are permitted subject to the following limitations:
 - (1) The total time during which the pH values are outside the required range of pH values shall not exceed 7 hours and 26 minutes in any calendar month; and
 - (2) No individual excursion from the range of pH values shall exceed 60 minutes.

This common-sense reporting approach takes into account short-term spikes and averaging periods necessary for continuous monitoring measurements and is found in the reporting requirements for some Central Valley NPDES permittees and not for others.

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III. Summary

In summary, CVCWA appreciates the Regional Board's efforts to conduct a meaningful triennial review process. CVCWA encourages the Regional Board to carefully prioritize the issues and look for creative ways to work with concerned stakeholders to ensure that these issues actually are addressed before the next triennial review.

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

Sincerely,

Warren Tellefson
Executive Officer

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