



# CVCWA

## Central Valley Clean Water Association

*Representing Over Fifty Wastewater Agencies*

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August 19, 2013

***Via Electronically Only***

Ms. Kathy Harder  
Water Resources Control Engineer  
Regional Water Quality Control Board,  
Central Valley Region  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670  
[kharder@waterboards.ca.gov](mailto:kharder@waterboards.ca.gov)

RE: Comments on the Tentative Waste Discharge Requirements and Master Reclamation Permit Order R5-2007-0113-01, City of Lodi White Slough Water Pollution Control Facility, San Joaquin County

Dear Ms. Harder:

The Central Valley Clean Water Association (“CVCWA”) appreciates the opportunity to submit comments on the tentative Waste Discharge Requirements and Master Reclamation Permit Order R5-2007-0113-01 for the City of Lodi White Slough Water Pollution Control Facility (“Tentative Order”). CVCWA is a non-profit association of public agencies located within the Central Valley region that provide wastewater collection, treatment, and water recycling services to millions of Central Valley residents and businesses. We approach these matters with the perspective of balancing environmental and economic interests consistent with state and federal law. In this spirit, we provide the following comments on the antidegradation findings, application of Title 27 to the various land application areas and their compliance schedules, and groundwater limitations.

## **I. Antidegradation Findings**

Finding F (“Antidegradation Policy”) of the Tentative Order states, “Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings.”<sup>1</sup> This statement is not completely accurate in that Resolution No. 68-16 applies to high quality waters. Thus, the statement must be revised to state that existing “high” quality waters must be maintained.

## **II. Application of Title 27 to Land Application Areas**

Finding G (“Title 27”) of the Tentative Order states that “the Facility’s storage ponds and reuse on the Agricultural Fields are not exempt from Title 27 because untreated industrial wastewater is applied.”<sup>2</sup> These statements are continued in the Fact Sheet.

As a preliminary matter, the introductory section with respect to Title 27 is not completely accurate. It states that Water Quality Order 2009-0005 was amended by Water Quality Order 2012-0001 in response to a petition filed by the California Sportfishing Protection Alliance (“CSPA”). In fact, Water Quality Order 2009-0005 was issued by the State Water Resources Control Board (“State Water Board”) in response to a CSPA petition, but Water Quality Order 2012-0001 (“Revised Lodi Order”) was issued in response to a settlement agreement between CVCWA and the State Water Board that was reached after CVCWA filed a petition for writ of mandate in Sacramento Superior Court. The Fact Sheet needs to be revised to correctly capture the trigger for the State Water Board’s issuance of Water Quality Order 2012-0001.

With respect to the Effluent Storage Ponds, the Fact Sheet states that “the exemption pursuant to Title 27, section 20090(b) also does not apply because the Effluent Storage Ponds are unlined: . . . .” Such a statement is not correct and is inconsistent with the Revised Lodi Order. The existence of liners is not a determinative factor with respect to application of Title 27, section 20090(b). Under this exemption, it may apply if certain conditions are met: (1) waste discharge requirements are issued, or waived; (2) the discharge is in compliance with the Basin Plan; and (3) the wastewater does not need to be managed as a hazardous waste. The existence of a liner is not a condition. Further, in the Revised Lodi Order, the State Water Board opines that as an alternative to lining ponds, “the City can improve the quality of wastewater discharged to the ponds in order to ensure that waste releases comply with Basin Plan groundwater objectives.”<sup>3</sup> Thus, the Fact Sheet must be revised to accurately reflect that the Effluent Storage Ponds may be exempt from Title 27 pursuant to section 20090(b) if the

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<sup>1</sup> Tentative Order, p. 4.

<sup>2</sup> Tentative Order, p. 4.

<sup>3</sup> Revised Lodi Order, p. 20.

conditions are satisfied. The time schedule in the Tentative Order provides Lodi with the time to satisfy such conditions.

Next, for the Agricultural Fields, the Fact Sheet to the Tentative Order states, “the reuse of treated wastewater, untreated industrial wastewater, stormwater and agricultural runoff and biosolids on the agricultural fields are not exempt from Title 27 pursuant to Section 20090(h) and this Order includes a compliance schedule to meet the regulatory requirements of Title 27.”<sup>4</sup> Again, this statement is not accurate. While the exemption under section 20090(h) may not apply, there are other exemptions that may. Specifically, the Revised Lodi Order found that that the most appropriate exemption with respect to the mixture applied to the agricultural fields is that in section 20090(b).<sup>5</sup> As indicated above, certain conditions must be met to be exempt under section 20090(b). The compliance schedule provision should provide Lodi with the time necessary to show that the conditions have been satisfied.

Moreover, as a policy matter, CVCWA is certain that Central Valley Regional Water Quality Control Board (“Central Valley Water Board”) does not mean to find that the Title 27 liner requirements apply to reuse of wastewater on agricultural fields. Such an application of Title 27 would be impractical to implement and such a finding would be a major disincentive to reuse of wastewater. As stated in the Fact Sheet, such an application of Title 27 is implied. Thus, the Fact Sheet must be revised to better reflect that wastewater applied to agricultural fields can be exempt under section 20090(b).

The Fact Sheet also makes misstatements with respect to the Sludge Lagoons. Although it properly finds the Sludge Lagoons exempt, it appears to make this finding because the Sludge Lagoons are lined.<sup>6</sup> As stated previously, the lining of ponds and lagoons are not a determining factor with respect to application of the exemptions in Title 27. Further, the Sludge Lagoons are considered to be treatment or storage facilities associated with the Water Pollution Control Facility. Under the Revised Lodi Order, it clearly states that where treatment or storage facilities are associated with the treatment plant, such facilities are unconditionally exempt from Title 27.<sup>7</sup> Accordingly, the Fact Sheet needs to be revised.

With respect to the Effluent Storage Ponds and the agricultural fields, the Tentative Order includes a compliance schedule provision for meeting Title 27 requirements. It states that: “By 1 November 2015, the Discharger shall submit to the Central Valley Water Board a corrective action plan and implementation schedule to assure compliance with the regulatory requirements of Title 27 for the Effluent Storage Ponds and the Agricultural Fields. At a minimum, the corrective action plan shall consider lining the effluent storage ponds and treating the industrial influent

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<sup>4</sup> Tentative Order, p. F-8.

<sup>5</sup> Revised Lodi Order, p. 9.

<sup>6</sup> Tentative Order, p. F-8.

<sup>7</sup> Revised Lodi Order, pp. 8-9.

wastewater.”<sup>8</sup> As stated, CVCWA is concerned that this requirements implies compliance with Title 27’s liner requirements and does not provide Lodi with the ability to show compliance through meeting the exemption conditions associated with section 20090(b). To the extent that this requirement would fail to provide Lodi with the ability to exhibit compliance through satisfaction of the conditions for exemption, it is inconsistent with the Revised Lodi Order. Accordingly, CVCWA recommends that the compliance schedule provision be revised to indicate that Lodi may assure compliance with the “conditions for exemption” or with the regulatory requirements of Title 27.

### III. Groundwater Limitations

The Tentative Order includes a specific list and numeric limitations for 14 different constituents as part of the groundwater limitations. This list of specific pollutants is problematic for several reasons. First, for many of the constituents, there are no specifically adopted numeric objectives. For example, the list includes boron, chloride, and total dissolved salts. The limitations included for these constituents are based on the United Nations Agricultural Goals. As indicated in many other permits, and as specifically addressed by the State Water Board in Order WQO 2004-0010 (“Woodland Order”), the United Nations Agricultural Goals cannot necessarily be applied without consideration of site-specific conditions. Accordingly, it is inappropriate to include such limitations here.

Second, and more importantly, it is not necessary or appropriate to include a list of specific pollutants for the groundwater limitations. In most waste discharge permits, the groundwater limitations are expressed in a manner that is consistent with the language in the Basin Plan and does not specifically spell-out constituents and their limitations. We believe the regular practice of using narrative statements as they are contained in the Basin Plan is more appropriate and should be followed here as well.

We appreciate your consideration of these comments and request that you revise the Tentative Order as suggested above. If you have any questions or if CVCWA can be of further assistance, please contact me at (530) 268-1338 or [eofficer@cvcwa.org](mailto:eofficer@cvcwa.org).

Sincerely,



Debbie Webster,  
Executive Officer

cc: Pamela Creedon, Central Valley Regional Water Quality Control Board  
Larry Parlin, City of Lodi

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<sup>8</sup> Tentative Order, p. 12.