



CVCWA

Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies

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February 27, 2013

Via Electronic Mail Only

Mr. David Kirn
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670
dwkirn@waterboards.ca.gov

**Re: Central Valley Clean Water Association's Comments on the Preliminary Draft
Order for the City of Davis Wastewater Treatment Plant**

Dear Mr. Kirn:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to submit these comments on the Preliminary Draft Order for the City of Davis Wastewater Treatment Plant (WWTP). CVCWA is a non-profit organization representing more than 50 publicly owned treatment works (POTWs) throughout the Central Valley in regulatory matters affecting surface water discharge, land application, and water reuse. We approach these matters in a way that balances environmental and economic interests consistent with applicable law.

We reviewed the Preliminary Draft Order and have significant concerns with certain provisions. In particular, findings in the Preliminary Draft Order with respect to effluent limitations for biochemical oxygen demand (BOD) and total suspended solids (TSS) are improper and not supported by evidence in the record. Further, certain provisions in the Preliminary Draft Order need to be revised to be specific with the SIP's¹ provisions with respect to reporting levels

¹ *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (2005) or "SIP."

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(RLs) and minimum levels (MLs). For these reasons described in detail below, we respectfully request that you revise the Preliminary Draft Order as follows: (1) modify the findings and discussion with respect to BOD, and TSS; and (2) modify the reporting and compliance determination provisions, particularly with regard to the use of MLs and RLs, to be consistent with the SIP. Further, CVCWA intends to review the Tentative Order when it is released, and may have additional comments at that time.

A. The Findings Respecting BOD and TSS Should Be Revised

Like with many other Central Valley permits, the final effluent limitations for BOD and TSS in the Preliminary Draft Order are being carried over from a previous permit. And here, similar to other permits, these limits were originally adopted to protect certain beneficial uses. In those cases and here, the previous BOD and TSS final effluent limits were determined to be necessary to ensure proper operation of tertiary treatment facilities, which were determined necessary to protect the agricultural and recreational beneficial uses. (See, e.g., discussion in Order No. R5-2007-0132-02 at pp. F-15, F-38 –F-41.) As explained in the City of Davis' current permit, the final effluent limitations for BOD and TSS are based on the technical capability of the tertiary process. (Order No. R5-2007-0132-02, p. 15.)

Unfortunately, for reasons that are not explained in the Preliminary Draft Order, Central Valley Regional Water Quality Control Board (Regional Board) staff proposes to depart dramatically from its previous reasons and explanations for including the final effluent limitations for BOD and TSS. Rather than relying on previous reasons, the Preliminary Draft Order includes new rationalizations that allege that secondary wastewater treatment does not adequately remove BOD and TSS to levels that are protective of fish and other aquatic life. Such reasoning suggests that the Regional Board only finds tertiary treatment to be protective of the aquatic life beneficial uses. However, the fact sheet provides no evidence to support such statements. Further, the fact sheet fails to identify any water quality objectives or water quality criteria for BOD and TSS that suggests such constituents are toxic to aquatic life.

CVCWA is concerned with the Regional Board staff's proposed reasoning for the BOD and TSS for several reasons. Most importantly, such blanket statements are inappropriate and should not be made without sufficient evidence in the record to support them. Accordingly, the Preliminary Draft Order needs to be revised to remove all such allegations. Instead, the Regional Board should maintain the same reasons for adopting final effluent limitations for BOD and TSS when these limits were originally adopted. Thus, the Preliminary Draft Order and the fact sheet need to be revised to mirror Order No. R5-2007-0132-02 with respect to the limits for BOD and TSS.

B. The Preliminary Draft Order's Provisions Related to Priority Pollutant Reporting and Compliance Determination Should Be Modified to Be Consistent With the SIP

The Preliminary Draft Order includes provisions related to reporting and compliance determinations for priority pollutants that are inconsistent with the SIP and may cause confusion regarding to compliance expectations. The following provides a brief overview of the relevant SIP requirements and our suggested revisions.

The SIP states: "Dischargers shall be deemed out of compliance with an effluent limitation, if the concentration of the priority pollutant in the monitoring sample is greater than the effluent limitation and greater than or equal to the RL [reporting level]."² The SIP does not define "reporting level," but explains that, subject to certain exceptions, the RL is to be selected from the MLs in Appendix 4 of the SIP.³ When there is more than one ML for a constituent, the SIP requires the Regional Board to "include as RLs, in the permit, all ML values, and their associated analytical methods, listed in Appendix 4 that are below the calculated effluent limitation."⁴ "The *discharger* may select any one of those cited analytical methods for compliance determination."⁵ If no ML is below the effluent limitation, the RL becomes the "lowest ML value, and its associated analytical method, listed in Appendix 4."⁶

The exceptions to selecting an RL from the MLs in Appendix 4 of the SIP are when: (1) the constituent is not included in Appendix 4; (2) the permittee agrees to use a test method that is more sensitive than those specified in the federal regulations; (3) the permittee agrees to use an RL that is lower than the MLs in Appendix 4; (4) the permittee demonstrates that the calibration standard matrix is sufficiently different from that used to establish the ML in Appendix 4 and proposes an appropriate ML for their matrix; and (5) the permittee uses a method whose quantification practices are not consistent with the definition of an ML.⁷ Accordingly, the SIP generally requires that the Regional Board obtain the permittee's agreement before using an ML that is lower or different than any ML in Appendix 4 for the constituent.

Under the SIP, permits are to require permittees to report with each sample result the RL and laboratory's current method detection level.⁸ Further, the SIP states: "Sample results

² SIP, § 2.4.5.1 at p. 26.

³ SIP, § 2.4.2 at p. 23.

⁴ *Ibid.*

⁵ *Ibid.*, emphasis added.

⁶ *Ibid.*

⁷ SIP, § 2.4.3 at p. 24.

⁸ SIP, § 2.4.1 at p. 23.

greater than or equal to the *RL* shall be reported as measured by the laboratory (i.e., the measured chemical concentration in the sample)."⁹

To make the Preliminary Draft Order consistent with these provisions of the SIP, and to eliminate any confusion regarding the SIP's application, CVCWA requests that you revise the proposed definitions for "reporting level" and "minimum level" as follows:

Reporting Level (RL)

RL is the value that the Discharger must report with each sample result for priority pollutants consistent with Sections 2.4.1 and 2.4.4 of the SIP and that is used in determining whether the Discharger has complied with effluent limitations established in this Order. The RL is selected from the MLs listed in Appendix 4 of the SIP in accordance with Section 2.4.2, or established in accordance with Section 2.4.3, of the SIP. If there is more than one ML listed in Appendix 4, or if deviation from the MLs listed in Appendix 4 occurs, the Discharger must agree to the ML selected in order for it to apply. The RL is based on the proper application of method-based analytical procedures for sample preparation and the absence of any matrix interferences. Other factors may be applied to the RL depending on the specific sample preparation steps employed. For example, the treatment typically applied in cases where there are matrix-effects is to dilute the sample or sample aliquot by a factor of ten. In such cases, this additional factor must be applied in the computation of the RL.

Minimum Level (ML)

The ML is based on the proper application of method-based analytical procedures for sample preparation and the absence of any matrix interferences. Other factors may be applied to the ML depending on the specific sample preparation steps employed. For example, the treatment typically applied in cases where there are matrix-effects is to dilute the sample or sample aliquot by a factor of ten. In such cases, this additional factor must be applied to the ML in the computation of the RL. ML is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

We further request that you revise the "additional study requirements" specified in Attachment I of the Preliminary Draft Order as follows:¹⁰

⁹ SIP, § 2.4.4 at p. 26, emphasis added.

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I. Background. Sections 2.4.1 through 2.4.4 of the SIP provide the minimum standards for analyses and reporting related to compliance determination. (Copies of the SIP may be obtained from the State Water Resources Control Board, or downloaded from <http://www.waterboards.ca.gov/iswp/index.html>). The Discharger is to follow the reporting protocol established in Section 2.4.4 of the SIP and Section II (Monitoring Requirements) below for purposes of compliance determination.

To implement the SIP, effluent and receiving water data are needed for all priority pollutants. Effluent and receiving water pH and hardness are required to evaluate the toxicity of certain priority pollutants (such as heavy metals) where the toxicity of the constituents varies with pH and/or hardness. Section 3 of the SIP prescribes mandatory monitoring of dioxin congeners. In addition to specific requirements of the SIP, the Central Valley Water Board is requiring the following monitoring solely for purposes of effluent and receiving water characterization related to reasonable potential determinations for the next permit renewal:

We appreciate your consideration of these comments. Please contact me at (530) 268-1338 or eofficer@cvcwa.org if I can be of further assistance.

Sincerely,



Debbie Webster,
Executive Officer

cc (via electronic mail): Stan Gryzcko, City of Davis
Gayleen Perreira, Central Valley Regional Water Quality Control Board
(gperreira@waterboards.ca.gov)
Pamela Creedon, Central Valley Regional Water Quality Control Board
(pcreedon@waterboards.ca.gov)

¹⁰ Use of an acronym other than "RL" in Attachment I of the Tentative Order may eliminate potential confusion between the provisions related to "reporting levels" and those related to "reporting limits."