



CVCWA

Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies

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April 20, 2012

Via Electronic Mail

Anand Mamidi
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670
amamidi@waterboards.ca.gov

Re: Comments on the Tentative Amendments to the Waste Discharge Requirements for the Town of Discovery Bay Community Services District Discovery Bay Wastewater Treatment Plant (Order No. R5-2008-0179-01)

Dear Mr. Mamidi:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to submit these comments on the tentative amendments to the waste discharge requirements (Order No. R5-2008-0179-01 or “Tentative Order”) for the Town of Discovery Bay Community Services District’s (District) Wastewater Treatment Plant (WWTP). CVCWA is a non-profit organization that represents more than 50 publicly owned treatment works throughout the Central Valley Region in regulatory matters affecting surface water discharge, land application, and water reuse. We approach these matters with a perspective to balance environmental and economic interests consistent with state and federal law.

For the reasons described below, we respectfully request that you modify the Tentative Order’s ultra violet (UV) requirements as provided in Section B of this letter.

A. The Tentative Order's UV Requirements Impermissibly Dictate the Manner of Compliance with the Effluent Limitations Prescribed for Total Coliform

The Tentative Order includes UV operational and monitoring requirements for the WWTP's discharge of treated effluent. (Tentative Order at pp. 25, F-47, F-56.) The stated purpose of the UV requirements is to "ensure adequate disinfection and compliance with the total coliform organisms effluent limitations recommended by DPH." (*Id.* at p. F-57.) CVCWA believes that the UV operating criteria impermissibly specify the manner of compliance with the Tentative Order's effluent limitations for total coliform.

Water Code section 13360 prohibits a discharge permit from specifying the manner in which the permittee must comply with a permit requirement. (*Tahoe-Sierra Preservation Council v. State Water Resources Control Board* (1989) 210 Cal.App.3d 1421, 1438 (*Tahoe-Sierra*.) In relevant part, this section states:

No waste discharge requirement or other order of a regional board or the state board or decree of a court issued under this division shall specify the design, location, type of construction, or particular manner in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply with the order in any lawful manner. (Wat. Code, § 13360(a).)

Water Code section 13360 "preserves the freedom of persons who are subject to a discharge to elect between available strategies to comply with that standard." (*Tahoe-Sierra, supra*, 210 Cal.App.3d at 1438.) That is, "[t]he discharger must be allowed to comply with the permit in any lawful manner." (State Water Resources Control Board (State Water Board) Order WQO 2002-0015¹ at p. 37; see State Water Board Order No. WQ 90-5² at p. 87 [board orders must "allow[] the dischargers to select the manner of compliance"]; State Water Board Order No. WQ 83-3³ at p. 4 [Water Code section 13360 "allows the Regional Board to regulate discharges of waste fully, so long as it does not tell the discharger precisely how to meet the established limits."].)

In this case, the Tentative Order impermissibly dictates the manner in which the WWTP must comply with the effluent limitations for total coliform. For example, one criterion states that that the District "shall operate the UV disinfection systems to provide a minimum hourly UV dose per channel of 80 mJ/cm²." (Tentative Order at p. 25.) Another criterion states that the "lamp sleeves must be cleaned periodically as necessary to meet the requirements." (*Ibid.*) The

¹ State Water Board Order WQO 2002-0015, *In the Matter of the Review on Own Motion of Waste Discharge Requirements Order No. 5-01-044 for Vacaville's Easterly Wastewater Treatment Plant* (Oct. 3, 2002).

² State Water Board Order No. WQ 90-5, *In the Matter of Petition of Citizens for a Better Environment (CBE), et al.* (Oct. 4, 1990).

³ State Water Board Order No. WQ 83-3, *In the Matter of the Petition of the United States Department of Agriculture, Forest Service of Review of Order No. 6-82-123* (April 21, 1983).

Tentative Order also contains other detailed operational requirements related to lamps and quartz sleeves. (*Ibid.*)

In lieu of the specific UV requirements proposed in the Tentative Order, CVCWA recommends that the District be required to submit an operations and maintenance program to ensure adequate disinfection. This approach is consistent with the Regional Water Board's purposes, but does not specifically dictate the manner of compliance with the effluent limitations for total coliform. In particular, we request that you replace the first bullet under section VI.C.4.b of the Tentative Order with the following:

- **UV Dosage.** The Discharger shall operate the UV disinfection systems ~~to provide a minimum hourly UV dose of 80 mJ/cm².~~ in accordance with its UV Disinfection Systems Operating Specifications

CVCWA appreciates your consideration of these comments and requested revisions. Please contact me at (530) 268-1338 or officer@cvcwa.org if I can be of further assistance.

Sincerely,



Debbie Webster,
Executive Officer

cc: Pamela Creedon, Central Valley Regional Water Quality Control Board
(Via Electronic Mail: pcreedon@waterboards.ca.gov)

Rick Howard, Town of Discovery Bay (Via Email: rhoward@todb.ca.gov)