



CVCWA

Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies

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ED CROUSE – TREASURER, RANCHO MURIETA CSD

November 27, 2012

Via Electronic Mail

Mr. 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 Order Amending Waste Discharge Requirements Order R5-2010-0081 for the City of Rio Vista's Northwest Wastewater Treatment Facility

Dear Mr. Mamidi:

The Central Valley Clean Water Association (CVCWA) submits these comments in response to the Tentative Order to amend Waste Discharge Requirements Order R5-2010-0081 (WDRs) for the City of Rio Vista's (City) Northwest Wastewater Treatment Facility. CVCWA is a non-profit organization representing more than 50 publicly owned treatment works 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.

CVCWA appreciates changes being proposed to the WDRs based on the consideration of information provided by the City. However, we are concerned about the practice of including construction, operation, and maintenance specifications related to ultraviolet disinfection (UV) and turbidity in permits. We believe that this practice is inconsistent with the Water Code's prohibition against dictating the manner of permit compliance. In particular, Water Code section 13360(a) 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.

Water Code section 13360 "preserves the freedom of persons who are subject to a discharge standard to elect between available strategies to comply with that standard."¹ Under this section, "[t]he discharger *must* be allowed to comply with the permit in any lawful manner."² This means that the Tentative Order and WDRs must "allow[] the dischargers to select the manner of compliance."³

In this case, the Tentative Order would prescribe, and continue the prescription of, requirements that dictate the City's manner of compliance with the WDRs. For example, the Tentative Order would add a requirement that the City "shall operate the UV disinfection system to provided a minimum hourly UV dose of 12 mJ/cm², and a minimum 7-day median UV dose of 22 mJ/cm²."⁴ In addition, the Tentative Order would modify the requirements related to the threshold nephelometric turbidity units while retaining criteria for turbidity regarding lamps, quartz sleeves, and other parameters.⁵ Because the construction, operation, and maintenance specifications for UV and turbidity run afoul of the Water Code, we respectfully request that you remove them from the Tentative Order and revise its findings accordingly.

¹ *Tahoe-Sierra Preservation Council v. State Water Resources Control Board* (1989) 210 Cal.App.3d 1421, 1438.

² *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*, Order WQO 2002-0015 (Oct. 3, 2002) at p. 37, emphasis added.

³ *In the Matter of Petition of Citizens for a Better Environment (CBE), et al.*, Order No. WQ 90-5 (Oct. 4, 1990) at p. 87; see *In the Matter of the Petition of the United States Department of Agriculture, Forest Service of Review of Order No. 6-82-123*, Order No. WQ 83-3 (April 21, 1983) 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."].

⁴ Tentative Order at p. 4.

⁵ *Ibid.*

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: David Melilli, City of Rio Vista (Via Electronic Mail: dmelilli@ci.rio-vista.ca.us)

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