

Central Valley Regional Water Quality Control Board
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To whom it may concern:

After reviewing the Draft Cease and Desist Order dated February 11, 2008, several questions have come to my mind that I would like the Board to address before finalizing this new C&DO. I find certain portions of the new C&DO to be contradictory and, in light of the recently imposed Administrative Liability Complaint, adding to my concern that this water board is not interested in well thought out solutions but promoting "band aid" fixes.

Below find relevant sections of the new C&DO and questions pertaining to them.

On page 2 under the topic of "Background" items #7, 8, and 9 is a misleading description of what took place after the imposition of CDO No. 97-193. #7 (d) was the mandate to "eliminate the migration of pollutants to groundwater by 1 December 2001." #9 (a) states "The Discharger's evaluation of groundwater quality concluded that the WWTF had degraded groundwater with salinity constituents, but did not present a complete evaluation of the nature and extent of the degradation as required." #9 (b) states "The Discharger took no action that resulted in measurable improvements in effluent or groundwater quality."

My question is how can your staff justify this statement when:

- 1) The test wells used to obtain this data TW- 1, 2, and 3 were not even representative of upgradient water quality nor measured downgradient water quality?
- 2) How do you justify this statement given that electroconductivity has declined from readings near 3000 micromhos to what your staff has recently identified as the baseline amount of 1300?

Under the topic of 2005 Cease and Desist Order, #10, the water board staff has correctly asserted "many residences and businesses use self-regenerating water softeners, and the discharge of brine from the water softeners to the community sewer appears to account for most of the excess salinity in the effluent."

The water board staff is aware that State law precludes the city of Dixon from eliminating this source of pollution by protecting these types of water softeners. The staff should also be aware that the city's wastewater committee has been addressing legislators to make them aware of this problem. Why is this conflicting law not taken into account in setting interim salinity limits at a reasonably higher level until a legislative fix is found? This is not addressed in the new draft C&DO except in the section that says the city may apply for higher baseline limits.

Under "Violations of the 2005 Cease and Desist Order" #12 items (a) through (g) are supposed

violations of this C&DO. As the citizens of Dixon, a higher authority than the city staff and city council of Dixon, used their California Constitutional authority to overturn and overrule an illogical, flawed, and costly “band-aid” solution, it casts doubt on the water board’s ability to levee a fine or not immediately enter into negotiations to redo the impotent 2005 C&DO.

How does the Water Board or its staff justify using this C&DO in light of the ability of the citizens to take ultimate responsibility away from their legislators?

Does the action of the Water Board, or should I say their executive director Pamela Creedon, in imposing a fine based on non-compliance of a rejected plan point to the fact that the Water Board and its agents are not upholding their oath of office to “defend and protect the Constitution of the State of California from all enemies foreign and domestic”?

It is noted in (f) that the city of Dixon was to “provide pond liners”. Is it appropriate to put in pond liners before proof of migration of heavy metals or other toxics has been verified? As sludge has been accumulating for over 25 years and has reached an equilibrium due to biologic decomposition, what evidence is there that this sludge isn’t acting as an impermeable barrier in and of itself?

In #15 there is an erroneous statement that says “the discharger held a series of four workshops” supposedly referenced to a March 2007 date. The actuality is these workshops were held prior to the November 2006 election in an effort to defeat the citizen’s initiative Measure L.

There is no question associated with this. However errors of this sort bring into question the credibility of the work.

It is interesting that #21, the groundwater limitations of Order 94-187, does not give any actual basis for assessing pollutant levels other than to say effluent must not be greater in these constituents than background levels. This seems to be at the crux of the problem because of the statistical variation of the background.

Why has it taken the Board ten years to come up with numerical limits? How can you justify the statement in #17 by your executive officer when she “expressed concern about the Discharger’s lack of progress in the last ten years” when in fact the Board did nothing to provide direction and fought the city about coming up with a set of logical, fact based numerical values?

Under “Other” #26 states that “the discharger has not complied with CDO No. R5-2005-0078, and has taken no action beyond preliminary planning efforts to comply with the pollution prevention/control requirements of that Order.” In fact, the city appointed a citizens’ committee to come up with an acceptable long range solution which would be amenable to the citizens, the city government, and the water board.

How does the water board staff justify this statement when the committee sent specific recommendations to the council to address capacity via the head works project, to

address inflow and infiltration, and to address the salinity issue with the very outreach program your staff was a reason for issuing a fine? As the water board staff was supposedly “cc’d” when the committee made its recommendations, again how can this statement be justified?

Number 27 addresses the fact that additional capacity will not be needed for several years. Again, the wastewater committee developed a plan to create additional capacity as needed either with “modular expansion” as suggested by city engineer Royce Cunningham and/or with the improvement to the head works once development money becomes available. #27 fails to address this directly.

Why did your staff not represent the fact that the city has taken steps to prepare for this eventuality as well as taking care of the inflow and infiltration problem?

As for the new proposed C&DO, the main problem I see with this document is the “hurry up” approach again being foisted on the city of Dixon. Our consultants have just finished a “salinity source” study to identify those discharging high amounts of salinity into our system and another background salinity level study including testing directly below some of our treatment ponds. Giving the city of Dixon less than 5 months, and in effect only 4 months to comply with #2 of the new C&DO is ridiculous unless the plan is to assure failure or an inappropriate solution.

In light of the fact that the studies have not yet been received by the wastewater committee or city staff, how does the staff justify such a short time frame to come up with “a detailed description of the work that will be undertaken”?

(It is my suggestion that at least a year be given for this to be resolved. Once the committee has the data to assess, decisions will come forth and more than likely beat this time line anyway.)

Again, in #3, the date of November 30, 2008 is predicated on having a plan for facility improvements in place. This date should also be extended out to assure time to come up with a well thought out factually documented plan.

How does water board staff justify such a short time line? (Stating that it has been 10 years since this issue began does not justify rushing to hasty decisions at this point.)

In #5 it states toward the bottom of the paragraph, “if the discharger wishes the Regional Water Board to use higher water quality limitations than those listed in Finding No. 23 to determine the final groundwater limitations, then ...”

Why is the water board staff suggesting the limitations can be relaxed? How do you justify this “allowance” when the board staff in prior communications with the city of Dixon staff has stated that they didn’t care what the results of “tracer element studies” and other salinity studies would show regarding the consultant’s contention that the city was indeed not polluting the shallow groundwater in the

vicinity of the WWTF?

(It would seem to me that you would want to come to some mutual decision regarding the appropriate effluent limits *before* deciding on specific projects, not after having put in costly and perhaps unnecessary solutions to non-existent problems. Please feel free to comment on this observation as I would like a specific response.)

As a member of the Dixon Chapter of the Solano County Taxpayers Association and a member of the city of Dixon wastewater committee I had hoped to become part of the solution to a problem created by two bureaucratic agencies stymied by the lack of a common sense scientific approach. I feel that the committee at least has made large strides in addressing the projects that made sense and rejecting those which have no foundation in fact.

At this point in time, I do not see the CVRWQCB acting in a reciprocal manner. By addressing the points and questions I have made above, I believe we can proceed to an equitable solution for all interests involved.

Sincerely,

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