10/8/08 Public Workshop
Bay Delta Periodic Review
Deadline: 10/1/08 by 12 noon

Central Valley Clean Water Association

Representing Over Sixty Wastewater Agencies

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September 30, 2008

Via electronic mail and U.S. Postal Mail

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Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000
commentletters@waterboards.ca.gov

SUBJECT: **Triennial Review of the 2006 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary**

Dear Ms. Townsend:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to provide comments to the State Water Resources Control Board (State Water Board) regarding its periodic review of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (2006 Bay-Delta Plan). CVCWA represents the interests of more than 60 wastewater agencies in the Central Valley in regulatory matters related to water quality and the environment. Included in the membership are a number of wastewater agencies that may be directly or indirectly affected by future regulatory and policy actions in the Delta.

First, CVCWA is concerned with the application of certain water quality objectives that are part of the 2006 Bay-Delta Plan. In particular, CVCWA is concerned with the application of salinity objectives to municipal wastewater discharges without proper consideration and implementation of Water Code sections 13000 and 13241.

Water Code section 13000 requires the State Water Board to regulate activities "to attain the highest water quality which is reasonable, considering all demands made and to be made ... ." (Wat. Code, § 13000.) This legal standard is of general applicability and applies to all of the State Water Board's water quality regulatory activities, including the development and adoption of water quality control plans (i.e., basin plans). When adopting water quality objectives, Water Code section 13241, as applied to the State Water Board by Water Code section 13170, requires the State Water Board to consider a number of statutory factors. The factors for consideration include: beneficial uses, water quality conditions that could be

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reasonably achieved, economic considerations, the need to develop housing, and the need to develop and use recycled water. (Wat. Code, § 13241.)

When the salinity objectives were adopted as part of the Bay-Delta Plan, the State Water Board focused on export pumping operations by the Department of Water Resources and the Bureau of Reclamation as the primary means for compliance with the objectives. (See In the Matter of the Petition of City of Manteca, Order WQ 2005-0005, at pp. 6-11.) The State Water Board did not evaluate or consider municipal wastewater discharge limitations as part of the State's implementation program for complying with the objectives. (*Id.*) Thus, the State Water Board failed to consider the implications of compliance on municipal wastewater agencies, including potential costs.

In 2006, the State Water Board amended the Bay-Delta Plan to expand application of the salinity water quality objectives from specific compliance locations to locations in "that general area," and amended the implementation program to require the Central Valley Regional Water Board to "impose discharge controls on in-Delta discharges of salts by agricultural, domestic, and municipal dischargers." (2006 Bay-Delta Plan at pp. 10, 28.) However, the administrative record for the 2006 Bay-Delta Plan fails to indicate that the State Water Board considered the statutorily required factors when it expanded the geographic area of application, and more importantly, when it expanded application of objectives on municipal dischargers.

Thus, the 2006 Bay-Delta Plan and the salinity objectives contained therein are not appropriate as applied to municipal dischargers, and must be reviewed and revised accordingly within this triennial review process. (See *Cities of Arcadia, et al. v. State Water Resources Control Board*, Super. Ct. Orange County, 2008, No. 06CC02974, Preemptory Writ of Mandate, Superior Court found it necessary for water quality standards to be reviewed in light of the factors and requirements set forth under Water Code sections 13241 and 13000 where such standards had not previously been considered as applied to stormwater.)

Second, CVCWA understands that other interested parties may recommend that the 2006 Bay-Delta Plan be amended to include water quality objectives for constituents of concern to drinking water. To the extent this may occur, CVCWA encourages the State Water Board to defer to the Drinking Water Policy development process that is underway with the Central Valley Regional Water Board. Through the Central Valley Drinking Water Policy Workgroup, the Central Valley Regional Water Board and other interested stakeholders have worked collaboratively for many years to develop and evaluate information and data on drinking water constituents of high priority. Based on the information developed, the Central Valley Regional Water Board will consider amending its Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, as necessary. It is unnecessary and inappropriate for the State Water Board to preempt this process.

In summary, the State Water Board must evaluate the application of salinity water quality objectives to municipal discharges in accordance and in consideration of Water Code sections 13000 and 13241. Also, to the extent others may recommend amendments to address drinking water quality constituents, such suggestions should not be adopted due to the Central Valley Regional Water Board's mature process directed toward developing a Drinking Water Policy.

Sincerely,

Original signed by Debbie Webster

Debbie Webster, Executive Officer
Central Valley Clean Water Association

c: Pamela Creedon, Central Valley RWQCB