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February 14, 2011

Kenneth Landau
Assistant Executive Officer
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Dr., Suite 200
Rancho Cordova, CA 95670-6114

Re: City of Ione Comments on Draft Cease and Desist Order

Dear Mr. Landau:

The City of Ione submits the following comments on the Draft Cease and Desist Order (CDO), dated January 21, 2011. The City appreciates Regional Board staff's efforts to work with the City to address the City's areas of concern, and is committed to continuing to work with staff to resolve these concerns. In particular, the City appreciates the time the Prosecution Team devoted to meeting with the City on February 11, 2011 and looks forward to continuing a positive dialog with the Prosecution Team with a goal toward resolving all areas of concern in the Draft CDO. With the understanding that the City will continue to work with the Prosecution Team, the City nonetheless submits these comments as necessary to preserve our position should the City and Prosecution Team be unable to sufficiently resolve important issues.

The City is also committed to pursuing wastewater improvements that will substantially improve water quality in the Ione Valley and provide opportunities for regionalization and water recycling. By way of background, the City has been pursuing a wastewater improvement project for many years, which resulted in the City's December 2009 certification of an Environmental Impact Report (EIR) and approval of the City of Ione Wastewater Master Plan (Master Plan). The City has also selected a contractor to design, build, finance and operate the wastewater plant improvements. The Master Plan provides for upgrading all the City's wastewater treatment to tertiary levels. The Master Plan also provides for closing ponds 1-4 and filling ponds 5 and 6 within 200 feet of Sutter Creek. The Master Plan originally contemplated building an additional pond 8 to accommodate the City's anticipated flows, but the City has since identified a lower demand for treatment capacity and has, therefore, reduced the overall treatment plant capacity, eliminating the need for pond 8.

The Master Plan identifies various potential recycled water users in the Ione area and the EIR included a programmatic evaluation of the impacts of delivering recycled water to these potential users. The City has been actively engaged in discussions with potential recycled water users for several months and continues to pursue agreements to deliver tertiary treated water to appropriate users. Potential recycled water users include industrial users, providing the opportunity for year-round reclamation, in addition to irrigation users. The overall goal of the City is to upgrade the treatment quality, maximize recycled water use and minimize the amount of discharge to existing ponds 5, 6, and 7.

The City recognizes staff's frustration with the amount of time that has passed since the 2003 Cease and Desist Order was issued. The existing wastewater system presents certain challenges that the City has been working through, and the efforts to resolve the overall wastewater situation have taken longer than the City would like. Implementing the wastewater improvements identified in the Master Plan and EIR is a top priority for the City and we are committed to continuing to work with staff toward implementation of the improvements.

The City also understands the need to update the 2003 Cease and Desist Order, and appreciates staff's efforts to develop an updated order that addresses current conditions and reflects current understanding of the issues. That said, the City does have some concerns with the Draft CDO, as outlined here and further described in Attachment A. The City anticipates, based on our February 11, 2011 meeting, a continued effort to provide comments on the specific language in the Draft CDO in an effort to produce a final CDO that can be supported by both Regional Board and City staff when presented to the Board in April.

The City's concerns fall into three categories. The City believes that the Draft CDO oversimplifies the issue of the potential need for a NPDES permit and requests that the Draft CDO be revised to reflect the current uncertainty associated with the need for a NPDES permit. As currently drafted, the CDO assumes that the discharge requires a NPDES permit. As further detailed in Attachment A, however, there are outstanding technical and legal questions regarding the need for a NPDES permit and the City requests that the CDO acknowledge these outstanding questions. Second, given the outstanding technical and legal questions regarding the need for a NPDES permit, the City requests a slight extension of the deadline to submit a Seepage Discharge Compliance Plan, the plan intended to detail the City's approach to either ensuring that a NPDES permit is not required, or obtaining a NPDES permit. The requested extension of this deadline will not impact the overall schedule in the CDO, but will allow the City to develop a better overall plan for addressing the issues of concern. Finally, the City is requesting modifications to the connection ban, as further detailed in Attachment A. These modifications are critical to facilitating the City's progress toward implementation of the wastewater

improvements. Although the City has previously approved projects allowing hundreds of additional connections and developers continue to move forward with construction in accordance with those prior approvals, the City is willing to restrict connections to 100 new connections over the next three years. This level has been identified because it will not cause the City to exceed its treatment and disposal capacity, will not measurably change groundwater conditions, and is necessary to facilitate the City's continued efforts to construct wastewater improvements.

The City looks forward to continuing to work with Regional Board staff toward implementation of the wastewater improvement project, and appreciates staff's efforts to assist the City in reaching its goal of upgrading treatment quality and creating opportunities for water recycling throughout the Ione area.

Very truly yours,

Kristen T. Castaños
City Attorney

Attachments

cc: David Coupe
Wendy Wyels
Kim Kerr
John Wanger
Mike Bryan
Steve Deverel
John Kramer
Bob Godwin