

Central Valley Regional Water Quality Control Board  
9/10 October 2014 Board Meeting

Response to Comments  
for the  
Tentative Order Amending Delta-area Publicly-Owned Treatment Works Waste  
Discharge Requirements to Allow for Participation in the  
Delta Regional Monitoring Program

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The following are Central Valley Regional Water Quality Control Board (Central Valley Water Board) staff responses to comments submitted by interested parties regarding the tentative Order amending Sacramento-San Joaquin Delta-area Publicly-Owned Treatment Works (Dischargers) Waste Discharge Requirements to allow for participation in the Delta Regional Monitoring Program (Delta RMP).

The tentative amending Order was issued for a 30-day public comment period on 24 July 2014 with comments due by 4 September 2014. The Central Valley Water Board received public comments regarding the tentative amending Order by the due date from the following:

1. United States Environmental Protection Agency
2. Central Valley Clean Water Association
3. California Sportfishing Protection Alliance
4. Ironhouse Sanitary District
5. Sacramento Regional County Sanitation District
6. City of Stockton
7. State Water Contractors and Westlands Water District (Public Water Agencies)
8. Contra Costa Water District

The submitted comments were accepted into the record, and are summarized below, followed by Central Valley Water Board staff responses. Changes were made to the tentative amending Order based on public comments received.

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (USEPA) COMMENTS**

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**USEPA Comment No. 1. Continuity of Monitoring**

USEPA would like the tentative amending Order to clarify monitoring is conducted in a manner to minimize a gap in data when transitioning from individual permit receiving water monitoring to monitoring requirements developed under the Delta RMP. Additionally, USEPA expects Dischargers will continue to conduct receiving water monitoring specified in their individual permit until the monitoring program under the Delta RMP is defined and ready to commence.

**RESPONSE:** As proposed, individual Dischargers may discontinue receiving monitoring prior to commencement of Delta RMP monitoring activities, and that is appropriate. Except in rare circumstances, the individual Dischargers and the Delta RMP will not be sampling for the same constituents at the same times and locations; therefore, continuity of monitoring is not an issue. The Delta RMP will incur costs prior to initiating monitoring, so the RMP will need funding prior to initiating sampling. Also, it is anticipated that at least some POTWs will provide in-kind services to the RMP, such as sampling staff and equipment, analyses in their agency laboratories, or use of existing agency contracts for laboratory services. It will take at least some time to reconfigure these staff assignments and contract services to switch from individual monitoring to Delta RMP monitoring. Funds saved by Dischargers for

periods when individual receiving water sampling is not occurring should go toward Delta RMP expenses.

## **USEPA Comment No. 2. Monitoring Parameters**

USEPA requests the tentative Order include a list of monitoring parameters and frequency of sampling proposed by the Delta RMP. Specifically, the Delta RMP is currently structured to assess four categories of contaminants: current use pesticides, mercury, pathogens and nutrients. USEPA encourages the Delta RMP to include toxicity testing as it is a tool toward evaluating the response of aquatic life to mixtures of contaminants in receiving waters, detecting adverse effects on aquatic life that may not be protected by existing permit limits on effluent, identifying the contaminants causing acute or chronic effects on aquatic life (including emerging contaminants), and provide information for identifying and regulating the sources of those contaminants.

**RESPONSE:** Details of the Delta RMP monitoring program are not included in the proposed Order 1) because those details are still under development and 2) because the Delta RMP monitoring should evolve with expansion of the program and modification of monitoring efforts as data is received and evaluated. Including the details of the Delta RMP monitoring in the NPDES Permits would require significant revision of many NPDES Permits whenever the Delta RMP determines that a change in monitoring is appropriate. This is an unwieldy process, and removes the responsibility for monitoring decision from the Delta RMP and places it in the Central Valley Water Board's permitting process, which is not the intent of having the stakeholder-controlled Delta RMP. We are not aware of any regional monitoring program that has the detailed monitoring programs included in the individual NPDES Permits.

Regarding use of toxicity testing, how toxicity testing would be used as a tool for evaluating water quality is a decision for the Delta RMP Steering Committee and technical committees. Aquatic habitat is only one of the beneficial uses of Delta waters, and toxicity is only one aspect of protection of the aquatic habitat. Although aquatic toxicity is certainly important, it should not be the sole or primary issue for the Delta RMP. The Central Valley Water Board is supportive of the use of toxicity monitoring for evaluating Delta waters. At this time, toxicity monitoring is being considered by the Delta RMP as part of the pesticide evaluation of Delta waters.

## **USEPA Comment No. 3. Cost Neutrality**

USEPA would like clarification as to whether existing investments are adequate for assessing the condition of designated uses and the potential adverse effects of contaminant discharges on aquatic life. USEPA recommends the Central Valley Water Board first calculate the total cost of a robust RMP, including inflation, which would adequately characterize baseline conditions and tie cost neutrality to the stewardship of a valuable Delta RMP over time versus individual monitoring of the present.

**RESPONSE:** The existing, uncoordinated monitoring in the Delta has clearly not been adequate to fully assess the condition of designated uses and the potential adverse effects of contaminant discharges on aquatic life. The Delta RMP is intended to coordinate existing monitoring, evaluate available data, and, where appropriate, supplement existing monitoring in order to improve the understanding of Delta water quality and inform regulatory decisions regarding Delta waters. An overall baseline characterization of Delta waters was not,

however, one of the questions selected by the Steering Committee for development. The Delta RMP, particularly in its fledgling years, needs to focus on narrower questions, and is selecting questions and methodologies that will have a high probability of providing meaningful results in a relatively short period of time. With successes on the early questions, the Delta RMP can build its capacity to deal with additional issues.

Cost neutrality is a controversial part of Delta RMP development. Delta Dischargers, and particularly POTWs, which are the primary focus of this permit amendment, have spent or are spending literally billions of dollars to upgrade treatment facilities to protect Delta waters. Ongoing operation, maintenance and monitoring costs are substantial. Layering an additional cost of regional monitoring upon existing costs would be a strain on local and business finances, and make formation of the Delta RMP more difficult. The concept of cost neutrality is that the Central Valley Water Board is willing to reduce current receiving water monitoring costs in exchange for a more productive use of those funds for regional monitoring. These costs are not fixed in time or amount. Monitoring costs, whether individual or regional, will increase with inflation. Also, the Central Valley Water Board will require Dischargers in the future, as we have required in the past, to conduct specialized monitoring and studies at additional cost. The Central Valley Water Board believes that at least some of these studies can be conducted more efficiently by an established regional monitoring program, when compared to the equivalent studies conducted individually by separate Dischargers, but the Dischargers will be expected to pay the Delta RMP to conduct the monitoring and/or studies. Monitoring costs have risen steadily over the years, new issues will arise, and the cost of the Delta RMP monitoring will increase over time, but the expectation is that Delta RMP monitoring will be more efficient and less expensive than conducting the equivalent work through multiple independent efforts.

#### **USEPA Comment No. 4. Transitioning the Regulated Community into the Delta RMP**

USEPA would like the Central Valley Water Board to acknowledge that Dischargers besides POTWs will be transitioned into the Delta RMP. The parties identified include dredging companies in the Sacramento-San Joaquin Delta, Caltrans, agricultural Dischargers and municipalities whose storm water discharges are regulated by the Clean Water Act, section 402.

**RESPONSE:** The Central Valley Water Board fully intends that all parts of the Discharger community will have the opportunity to participate in the Delta RMP. Representatives of Phase 1 and Phase 2 Municipal Separate Storm Sewer Systems (MS4s) and Irrigated Agriculture have seats on the Delta RMP Steering Committee. For MS4s, language amendments for MS4 permits to facilitate participation in the Delta RMP have been shared, and the language will probably be incorporated into the regional MS4 permit under development. Immediate amendment of the existing MS4 permits is difficult because the Stockton area MS4 permit has expired and the amendments cannot legally be made to an expired permit. MS4 permittees are not just participating on the Steering and technical Committees, but have advanced funding for some current Delta RMP functions. Incorporation of the Irrigated Lands Regulatory Program into the Delta RMP is more difficult, because irrigated land discharges are certainly not limited only to irrigated lands located in the Delta, and the irrigated lands monitoring is essentially already a regional monitoring program. The intent is, however, to include irrigated lands in the Delta RMP. All other Discharger groups should eventually be incorporated into the Delta RMP.

It is expected that the groups that use or have interest in Delta waters will also financially participate in the Delta RMP. These groups may not always be part of the baseline funding

of the Delta RMP, but would financially participate in studies of interest to them. This is common in other regional monitoring programs.

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## **CENTRAL VALLEY CLEAN WATER ASSOCIATION (CVCWA) COMMENTS**

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### **CVCWA Comment I. Compliance Determination Language**

CVCWA has asked for clarification of how Delta RMP data will be used with respect to determining compliance with individual discharge compliance. Specifically, the tentative Order states that receiving water data that is not specifically required to be collected by the individual permit (i.e. Delta RMP data), will not be used directly to determine that the discharge is in violation of the permit. It also states that data from the Delta RMP may be used in conjunction with other data to determine if a discharge is in compliance with the permit. To ensure consistency between the compliance determination language and the Monitoring and Reporting Program language of the individual permits, CVCWA has recommended the following revised compliance determination language:

As described in Section VIII of Attachment E, Ssuch data may be used, if scientifically defensible, in conjunction with other receiving water data, effluent data, receiving water flow data, and other pertinent information to determine whether or not a discharge is in compliance with this Permit.

**RESPONSE:** We concur with the proposed change in the compliance determination language and have modified the proposed compliance determination language as shown in underline/strikeout format below.

### **Section VII. Compliance Determination**

Use of Delta Regional Monitoring Program and other Receiving Water Data to determine compliance with Receiving Water Limitations. Delta Regional Monitoring Program data and other receiving water monitoring data that is not specifically required to be conducted by the Discharger under this permit, will not be used directly to determine that the discharge is in violation of this Permit. As described in Section VIII of Attachment E, Ssuch data may be used, if scientifically defensible, in conjunction with other receiving water data, effluent data, receiving water flow data, and other pertinent information to determine whether or not a discharge is in compliance with this Permit.

In addition, CVCWA requests a case-by-case evaluation of compliance determination language in individual permits as to avoid removing critical individual monitoring requirements required to determinate compliance. For example, under the Monitoring and Reporting Program in the City of Woodland Tentative Order, the City of Woodland must monitor temperature at receiving water monitoring locations RSW-001 and RSW-002. The Compliance Determination language in the City of Woodland Tentative Order provides that compliance with the temperature receiving water limitation will be determined based on the difference in temperature measured at RSW-001 and RSW-002.

**RESPONSE:** Changes to the compliance determination language for individual permits is not necessary for the proposed amendment. Prior to participation in the Delta RMP, dischargers are required to submit a letter to the Board that outlines the specific monitoring locations and constituent combinations that will no longer be conducted individually. In the example discussed in CVCWA's comment regarding the City of Woodland (City), if the City chooses to participate in the Delta RMP and receiving water temperature monitoring is no longer conducted, compliance with the temperature receiving water limitations would be evaluated in accordance with the new compliance determination language discussed above. The compliance determination procedures discussed in the City's proposed permit would only be used if the City conducts temperature monitoring at RSW-001 and RSW-002.

### **CVCWA Comment II. Special Reopener Provisions**

CVCWA points out that there is a reopener provision in most of the individual permits that allows a permit to be reopened once the Central Valley Water Board develops a Regional Monitoring Program for the Sacramento-San Joaquin Delta. CVCWA contends this reopener should be deleted or revised to account for the adoption of the Delta RMP.

**RESPONSE:** We concur that the reopener provision should be removed. Additional amendments to individual permits might be needed over time to facilitate RMP participation, but a reopener is not specifically needed to allow those amendments. The proposed amendment has been modified accordingly to remove the reopener provisions for each discharger.

### **CVCWA Comment III. Effluent and Receiving Water Characterization**

As currently proposed, individual Dischargers may select between conducting receiving water monitoring for the characterization monitoring or relying on data from the Delta RMP for such characterization. However, the proposed language does not clarify if Dischargers will be required to provide supplemental data if the Delta RMP does not collect all constituents listed in the characterization monitoring within each individual permit. Therefore, CVCWA requests additional clarification in the individual permits' Monitoring and Reporting Program to include data Dischargers may be required to provide if they choose to participate in the Delta RMP. CVCWA also points out that effluent and receiving water characterization monitoring should occur concurrently, where feasible and practical, to ensure consistent and sound water quality data for the Sacramento-San Joaquin Delta.

**RESPONSE:** We concur that RMP monitoring may not fulfill all data needs to support each and every NPDES Permit for the Delta. Dischargers may need to conduct supplemental individual monitoring to address water quality issues specific to their NPDES Permits, particularly if the Discharger has or would like to have dilution credit for their discharge. However, the monitoring included in the current permits may not be needed for every Discharger. There are often decades of data for the receiving waters showing acceptable background concentrations for some constituents; robust continued monitoring may not be needed and limited ongoing monitoring combined with the historic data set may be adequate support for permitting decisions. Modifications to permit language proposed by Sacramento Regional County Sanitation District and accepted by the Central Valley Water Board clarify this issue (see Regional San Comment 1).

Regarding the benefits for coordinating the timing of individual sampling to provide improved water quality understanding of Delta water quality, we agree. This coordination should be provided through the RMP, and not through trying to customize each individual monitoring program through repeated amendments to the NPDES Permits.

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## **CALIFORNIA SPORTFISHING PROTECTION ALLIANCE (CSPA) COMMENTS**

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### **CSPA Comment 1. General Delta Monitoring and Burden of Costs**

CSPA contends that Delta RMP monitoring may be unrelated to the Dischargers' specific wastewater discharge and that the Central Valley Water Board cannot defend any reasonable relationship to the need for sampling at a location that may be unrelated to the specific wastewater discharge. CSPA points out that the Central Valley Water Board has not held Dischargers responsible for upstream water quality for which they have no control.

CSPA believes the burden of the costs for water quality monitoring the Sacramento-San Joaquin Delta should be distributed from statewide resources including water users, agricultural Dischargers, and stormwater Dischargers.

**RESPONSE:** See USEPA Comment 4 response.

### **CSPA Comment 2. Monitoring Requirements of 40 Code of Federal Regulations (CFR)**

CSPA believes eliminating the surface water sampling requirements from the individual discharge permits violates the requirements of 40 CFR sections 122.44(i) and 122.48, which require that NPDES permits to include requirements to monitor sufficient to assure compliance with permit limitations and requirements, the mass or other measurement specified in the permit for each pollutant limited in the permit, and the volume of effluent discharged from each outfall. CSPA further contends receiving water monitoring requirements, including type, interval and frequency, should continue to be included in individual permits to assure compliance with permit limitations and requirements.

**RESPONSE:** We agree that the monitoring requirements must be sufficient to determine compliance with permit limitations. The Dischargers' permits include extensive monitoring and reporting requirements to ensure compliance with permit limitations. The effluent limitations in each NPDES Permit were developed based upon effluent and receiving water data, and appropriate modeling and other studies, explicitly to protect the receiving waters and assure compliance with water quality objectives under reasonable worst case conditions. Effluent monitoring requirements are not being changed, so effluent monitoring to assure compliance with effluent limitations will assure compliance with receiving water objectives.

Dischargers choosing to participate in the Delta RMP must submit a letter to the Board that identifies the specific receiving water monitoring locations and constituent combinations that will no longer be conducted individually. No changes in effluent monitoring are proposed. For some dischargers the individual effluent monitoring and Delta RMP receiving water monitoring will be sufficient to evaluate compliance. However, it is expected that for some dischargers certain receiving water monitoring will continue to be conducted individually,

e.g., in situations where a Thermal Plan exception has been granted receiving water temperature monitoring may be required. Central Valley Water Board staff will work with Dischargers to ensure sufficient monitoring is conducted to evaluate compliance with permit limitations. The Central Valley Water Board also have the ability to amend NPDES permits or issue California Water Code section 13267 letters to require site-specific receiving water monitoring requirements to ensure monitoring is sufficient to determine compliance.

### **CSPA Comments 3, 4 and 5. Expand Receiving Water Monitoring to Include Mixing Zone**

CSPA believes current receiving water sampling is inadequate and should be expanded, not eliminated. The Central Valley Water Board allows mixing zones, where available, in individual NPDES permits. CSPA contends additional in-stream monitoring should be conducted in order to verify the mixing zone analysis, which is based on hydraulic modeling, is protective.

In addition to official mixing zone allowances, the Central Valley Water Board routinely utilizes the “Emerick” method for establishing limitations for hardness dependent metals. The “Emerick” method is based on the use of assimilative capacity within the receiving stream. Again, CSPA would like the Central Valley Water Board to require in-stream sampling to verify the accuracy of the “Emerick” method or to assure in-stream compliance with metals criteria.

Again, CSPA contends the Central Valley Water Board has not required in-stream sampling to verify the accuracy of the method used, to assess the size of the mixing zone, or to measure compliance with criteria. The receiving water compliance verification sampling could also be used to significantly improve the Delta RMP database. The Delta is listed as impaired for unknown toxicity. CSPA believes additional sampling within the receiving stream can help determine if the discharge is acutely toxic to aquatic life and could be critical information to include in the Delta RMP.

**RESPONSE:** We do not concur that current receiving water sampling is inadequate and must be expanded. CSPA’s examples of inadequate sampling are not related to routine receiving water monitoring requirements, which are the subject of the proposed amendment. In situations where dischargers have been granted a mixing zone we expect that individual monitoring will continue to be conducted to determine the amount of assimilative capacity, but the Delta RMP may also be used for this purpose. Also, receiving water monitoring for the purposes of verifying mixing zones is not a part of routine monitoring. Rather, mixing zone verifications are typically required as special studies. The proposed amendment will not affect these studies.

### **CSPA Comment 6 and 7. Constituents of Emerging Concern and Dissolved Oxygen**

The increasing production and use of pharmaceuticals and personal care products (PPCPs) – some of which may be endocrine disrupting compounds (EDCs) – have led to a growing concern about the occurrence of these compounds in the environment. Recent studies have reported the occurrence worldwide of EDCs, PPCPs, and other organic wastewater contaminants (OWCs) – collectively referred to as “constituents of emerging concern” (CECs) or “emerging constituents” (ECs) – in wastewater treatment plant effluents, surface waters used as drinking water supplies, and in some cases, finished drinking waters.

Citing recent scientific investigations and literature regarding CECs, CSPA is concerned with the impact on receiving water beneficial uses and the potential for violation of the narrative toxicity objective. CSPA has requested additional receiving water monitoring for CECs.

The current dissolved oxygen (D.O.) sampling required in Central Valley Water Board permits consists of one sample upstream and one sample downstream, within the water column. CSPA cites EPA's Goldbook, which gives a 7-day mean coldwater criteria of 9.5 mg/L D.O. and a 1-day minimum coldwater criteria of 8.0 mg/L D.O. for protection of early life stages of coldwater fish that are present in inter-gravel waters. CSPA is concerned that inter-gravel sampling is not required by Central Valley Water Board surface water Dischargers. In addition, CSPA points out that the Central Valley Water Board has not specified when the D.O. monitoring should be conducted in the receiving water (i.e. when D.O. levels are likely to be at their lowest levels).

**RESPONSE:** We concur that CECs are an increasing concern in the Delta and that dissolved oxygen is an important water quality indicator for aquatic life. The primary goal of the Delta RMP is to provide coordinated Deltawide monitoring and assessment of water quality. A strategic planning process ensures that the Delta RMP focuses on the highest priority water quality information needs for beneficial use protection and restoration in the Delta. A Steering Committee and technical committees will identify constituents of concern to study and develop monitoring plans. The State Water Resources Control Board is developing a strategy for sampling CECs in surface waters. Central Valley Water Board staff is participating in that work. The Delta RMP is anticipated as the organization to conduct the sampling.

#### **CSPA Comment 8. Reasonable Potential Analysis and Insufficient Data**

CSPA has pointed out that the Central Valley Water Board cites the lack of sufficient data in assessing reasonable potential while renewing permits for surface water discharges, which result in additional monitoring as opposed to establishing effluent limitations. CSPA contends that a robust data set is necessary to conduct a reasonable potential analysis and that any reduction in receiving water sampling could result in a continued inability to determine reasonable potential for individual pollutants. CSPA further contends that a primary and elementary statistical tool is the student-T test, which requires a minimum of 13 samples to be considered statistically valid. CSPA claims any reduction in receiving water sampling that compromised the ability to assess reasonable potential for individual priority pollutants would be in violation of the California Toxics Rule and the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP).

**RESPONSE:** The proposed amendment does not remove the Dischargers' responsibility to provide adequate receiving water data for their permit renewals. The proposed amendment simply allows dischargers the option of conducting individual receiving water characterization monitoring or utilizing Delta RMP monitoring to address all or a portion of the characterization monitoring.

#### **CSPA Comments 9 and 10. Receiving Water Limitations and Monitoring**

In general, CSPA does not believe surface water monitoring requirements are stringent enough in Central Valley Water Board permits and should include water quality objectives contained in the Water Quality Control Plan (Basin Plan) for the Sacramento River and San Joaquin River

Basins (e.g. biostimulatory substances (nitrogen and phosphorous), chemical constituents, color, oil and grease, suspended sediments and settleable substances).

In addition, CSPA contends that receiving water sampling locations are selected by the Discharger based on ease of access to the stream and compliance with receiving water limitations will be based on sampling upstream and downstream of the point of discharge. CSPA is concerned that water quality objectives contained in the Basin Plan will not be protected when receiving water sampling locations are hundreds or thousands of feet from the discharge location.

**RESPONSE:** We do not concur that current receiving water monitoring is inadequate. Regardless, this comment is outside the scope of the proposed permit amendment. The amendment provides specific language to solely allow for participation in the Delta RMP.

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## **IRONHOUSE SANITARY DISTRICT (IRONHOUSE) COMMENTS**

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### **Ironhouse Comment No. 1. Finalize Delta RMP**

Ironhouse has commented that the Delta RMP should be finalized before individual Waste Discharge Requirements are amended to allow to provide meaningful comments to the proposed amending Order.

**RESPONSE:** See USEPA comment 2 response.

### **Ironhouse Comment No. 2. Costs and Benefits of Participating in the Delta RMP**

Ironhouse is currently only responsible for conducting receiving water monitoring as part of the characterization monitoring, which is performed quarterly in year 3 or 4 of their current permit cycle. Therefore, Ironhouse will be weighing the costs and benefits associated with participating in the Delta RMP.

**RESPONSE:** The intent is for the initial implementation of the Delta RMP to be cost-neutral for permittees. Cost neutrality is a key principle guiding permit changes that will allow the shifting of monitoring resources from existing individual permit compliance to regional monitoring. The proposed amendment provides the opportunity for dischargers to participate in the Delta RMP. It does not mandate participation.

### **Ironhouse Comments No. 3, 4, 5, and 6. Receiving Water Monitoring Requirements**

Ironhouse would like clarification as to Delta RMP requirements contained in Attachment I, Section VIII, shown below. How is it determined if the part of the receiving water monitoring a Discharger chooses to conduct is reasonable and acceptable? If the Delta RMP is not intended to be used directly to represent either upstream or downstream water quality for purposes of determining compliance with surface water discharge permits, will the Discharger be responsible for additional upstream and downstream water quality monitoring? If water quality issues are identified which require further evaluation, who is the responsible party to conduct

this further evaluation? Finally, Ironhouse believes the paragraph below discussing eSMR submittal is contradictory and needs clarification.

During the period of participation in the Delta Regional Monitoring Program, the Discharger shall continue to report the individually conducted receiving water monitoring data in the Electronic Self-Monitoring Reports (eSMR). In addition, the Discharger's eSMR cover letter shall state that the Discharger is participating in the Delta Regional Monitoring Program in lieu of conducting the individual receiving water monitoring program required by the permit.

**RESPONSE:** Data collected through the Delta RMP will be used on a case-by-case basis for permit development. Delta RMP monitoring data may be used to help establish background receiving water quality for Reasonable Potential analyses in an NPDES Permit after evaluation of the applicability of the data for that purpose. In general, monitoring data from samples collected in the immediate vicinity of the discharge will be given greater weight in permitting decisions than receiving water monitoring data collected at greater distances from the discharge point. Delta RMP data, as with all environmental monitoring data, can provide an assessment of water quality at a specific place and time that can be used in conjunction with other information, such as other receiving water monitoring data, spatial and temporal distribution and trends of receiving water data, effluent data from the Discharger's discharge and other point and non-point source discharges, receiving water flow volume, speed and direction, and other information to determine the likely source or sources of a constituent that resulted in exceedance of a receiving water quality objective.

Dischargers are responsible for providing adequate information to characterize the effluent and receiving water for NPDES permit renewals. The proposed amendment does not remove the dischargers responsibility to provide adequate receiving water data for their permit renewals. The proposed amendment simply allows dischargers the option of conducting individual receiving water characterization monitoring or utilizing Delta RMP monitoring to address all or a portion of the characterization monitoring.

#### **Ironhouse Comment No. 7. Referencing Outdated Permit**

Ironhouse would like clarification as to why the tentative Order refers to their permit adopted in 2008 as opposed to the permit adopted in 2013.

**RESPONSE:** The current 2013 permit, R5-2013-0157, is the one amended in the tentative Order. However, the language contained in the Fact Sheet of R5-2013-0157 references receiving water monitoring required by the previous permit, R5-2008-0057. No changes are needed.

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### **SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT (REGIONAL SAN) COMMENTS**

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#### **Regional San Comment No. 1. Proposed Language Modifications**

Regional San supports the Central Valley Water Board's efforts to work with Dischargers in developing the Delta RMP. Below are proposed language modifications shown in

underline/strikeout, which allows Regional San more flexibility to participate in the Delta RMP while ensuring information needs for permit development and compliance is met.

#### Tentative Order Page 2

5. A Delta RMP is an identified priority in the State Water Resource Control Board's and Central Valley Water Board's Delta Strategic Plan, and a Delta RMP is recommended in the Delta Plan ~~recently~~ adopted by the Delta Stewardship Council.
11. Waste discharge requirements are amended to allow Dischargers to participate in the Delta RMP in lieu of conducting their current individual monitoring efforts, when feasible or appropriate.

#### Tentative Order Page 3

15. The following Sacramento-San Joaquin Delta-area Dischargers' NPDES Permits may be reopened and modified in accordance with the Code of Federal Regulations (CFR) at 40 CFR 122.62(a)(2):
  - A. Order R5-2010-0114-02~~3~~
    - Sacramento Regional County Sanitation District, Sacramento Regional Wastewater Treatment Plant (NPDES No. CA0077682)

#### Attachment A

Replace Order R5-2010-0114-02 with R5-2010-0114-03 throughout Attachment A.

#### **IT IS HEREBY ORDERED THAT:**

Waste Discharge Requirements Order R5-2010-0114-02~~3~~ (NPDES No. CA0077682) is amended solely to address the Regional Monitoring Program in accordance with the Limitations and Discharge Requirements, section VI.C.1.j. **Effective immediately upon adoption**, Order R5-2010-0114-02~~3~~ is amended as shown in Items 1-3 below.

1. **Limitations and Discharge Specifications.** Add the following text in section VII, Compliance Determination, as shown in underline format below:
  - L. **Use of Delta Regional Monitoring Program and other Receiving Water Data to determine compliance with Receiving Water Limitations.** Delta Regional Monitoring Program data and other receiving water monitoring data that is not specifically required to be conducted by the Discharger under this permit, will not be used directly to determine that the discharge is in violation of this Permit. The Discharger may, however, conduct any site-specific receiving water monitoring deemed appropriate by the Discharger that is not conducted by the Delta RMP and submit that monitoring data. Such data may be used in conjunction with other receiving water data, effluent data, receiving water flow data, and other pertinent information to determine whether or not a discharge is in compliance with this Permit.

2. **Monitoring and Reporting Program.** Add the following text in section VIII, Receiving Water Monitoring Requirements – Surface Water and Groundwater, as shown in underline format below:

**VIII. RECEIVING WATER MONITORING REQUIREMENTS – SURFACE WATER AND GROUNDWATER**

The Discharger shall implement the Receiving Water Monitoring Requirements in Attachment E, Sections VIII.A.1, VIII.A.2 and VIII.A.3 of this Order. However, in lieu of conducting the individual monitoring specified in Attachment E, Sections VIII.A.1, VIII.A.2 and VIII.A.3 of this Order (including visual observations), the Discharger may elect to participate in the Delta Regional Monitoring Program. The Discharger may choose to conduct all or part of the receiving water monitoring through the Delta Regional Monitoring Program. If the Discharger elects to cease all or part of the individual receiving water monitoring and instead participates in the Delta Regional Monitoring Program, the Discharger shall submit a letter signed by an authorized representative informing the Board that the Discharger will participate in the Delta Regional Monitoring Program, and the date on which individual receiving water monitoring required under Attachment E, Sections VIII.A.1, VIII.A.2 and VIII.A.3 will cease, or be modified, and specific monitoring location and constituent combinations that will no longer be conducted individually. Approval by the Executive Officer is not required prior to participating in the Delta Regional Monitoring Program.

If the Discharger participates in the Delta Regional Monitoring Program in lieu of conducting individual receiving water monitoring, the Discharger shall continue to participate in the Delta Regional Monitoring Program until such time as the Discharger informs the Board that participation in the Delta RMP will cease and individual monitoring is reinstated. Receiving water monitoring under Attachment E, Sections VIII.A.1, VIII.A.2 and VIII.A.3, is not required under this Order so long as the Discharger adequately supports the Delta Regional Monitoring Program. If the Discharger fails to adequately support the Delta Regional Monitoring Program, the Discharger shall reinstate individual receiving water monitoring under Attachment E, Sections VIII.A.1, VIII.A.2 and VIII.A.3, upon written notice from the Executive Officer. During the participation in the Delta RMP, the Discharger may, however, conduct any or part of the receiving water monitoring deemed appropriate by the Discharger which is not conducted by the Delta RMP and submit that monitoring data as required in the Monitoring and Reporting Program.

Delta RMP data is not intended to be used directly to represent either upstream or downstream water quality for purposes of determining compliance with this Permit. Delta RMP monitoring stations are established generally as “integrator sites” to evaluate the combined impacts on water quality of multiple discharges into the Delta; Delta RMP monitoring stations would not normally be able to identify the source of any specific constituent, but would be used to identify water quality issues needing further evaluation. Delta RMP monitoring data, along with individual Discharger data, may be used to help establish background receiving water quality for Reasonable Potential analyses in an NPDES Permit after evaluation of the applicability of the data for that purpose. Delta RMP data, as with all environmental monitoring data, can provide an assessment of water quality at a specific place and time that can be used in conjunction with other information, such as other receiving water monitoring data, spatial and temporal distribution and trends of receiving water data, effluent

data from the Discharger's discharge and other point and non-point source discharges, receiving water flow volume, speed and direction, and other information to determine the likely source or sources of a constituent that resulted in exceedance of a receiving water quality objective.

During the period of participation in the Delta Regional Monitoring Program, the Discharger shall continue to report ~~any~~the individually conducted receiving water monitoring data in the Electronic Self-Monitoring Reports (eSMR) according to the Monitoring and Reporting Program. In addition, the Discharger's eSMR cover letter shall state that the Discharger is participating in the Delta Regional Monitoring Program in lieu of conducting the individual receiving water monitoring program required by the permit.

3. **Fact Sheet.** Add text to section VI.D.1, Rationale for Monitoring and Reporting Requirements, as shown in underline format below:

## **VI. Receiving Water Monitoring**

### **1. Surface Water**

Receiving water monitoring is necessary to assess compliance with receiving water limitations and to assess the impacts of the discharge on the receiving stream. New monitoring locations have been added at River Mile 44 and River Mile 43, RSWD-004 and RSWD-005, respectively, to better evaluate impacts in the receiving water.

#### **Delta Regional Monitoring Program**

The Central Valley Water Board requires individual Dischargers and Discharger groups to conduct monitoring of Delta waters and Delta tributary waters in the vicinity of their discharge, known as ambient (or receiving) water quality monitoring. This monitoring provides information on the impacts of waste discharges on Delta waters, and on the extant condition of the Delta waters. However, the equivalent funds spent on current monitoring efforts could be used more efficiently and productively, and provide a better understanding of geographic and temporal distributions of contaminants and physical conditions in the Delta, and of other Delta water quality issues, if those funds were used for a coordinated ambient monitoring effort, rather than continue to be used in individual, uncoordinated ambient water quality monitoring programs. The Delta Regional Monitoring Program (RMP) will provide data to better inform management and policy decisions regarding the Delta.

This Order will allow Dischargers to elect to participate in the Delta RMP in lieu of conducting all or part of the individual receiving water monitoring required in the Monitoring and Reporting Program. If the Discharger elects to cease individual receiving water monitoring and participate in the Delta Regional Monitoring Program, the Discharger shall submit a letter signed by an authorized representative to the Executive Officer informing the Board that the Discharger will participate in the Delta Regional Monitoring Program and the date on which individual receiving water monitoring under Attachment E, Sections VIII.A.1, VIII.A.2 and VIII.A.3, will cease or be modified. Approval by the Executive Officer is not required.

Delta RMP data is not intended to be used directly to represent either upstream or downstream water quality for purposes of determining compliance with this Permit. Delta RMP monitoring stations are established generally as “integrator sites” to evaluate the combined impacts on water quality of multiple discharges into the Delta; Delta RMP monitoring stations would not normally be able to identify the source of any specific constituent, but would be used to identify water quality issues needing further evaluation. Delta RMP monitoring data may be used to help establish background receiving water quality for Reasonable Potential analyses in an NPDES Permit after evaluation of the applicability of the data for that purpose. In general, monitoring data from samples collected in the immediate vicinity of the discharge will be given greater weight in permitting decisions than receiving water monitoring data collected at greater distances from the discharge point. Delta RMP data, as with all environmental monitoring data, can provide an assessment of water quality at a specific place and time that can be used in conjunction with other information, such as other receiving water monitoring data, spatial and temporal distribution and trends of receiving water data, effluent data from the Discharger’s discharge and other point and non-point source discharges, receiving water flow volume, speed and direction, and other information to determine the likely source or sources of a constituent that resulted in exceedance of a receiving water quality objective.

If the Discharger begins to participate in the Delta Regional Monitoring Program in lieu of individual receiving water monitoring, the Discharger shall continue to participate in the Delta Regional Monitoring Program until such time as the Discharger informs the Board that participation in the Delta RMP will cease and individual monitoring is reinstated. Receiving water monitoring under Attachment E, Sections VIII.A.1, VIII.A.2 and VIII.A.3, is not required under this Order so long as the Discharger adequately supports the Delta Regional Monitoring Program. Participation in the Delta RMP by a Discharger shall consist of providing funds and/or in-kind services to the Delta RMP at least equivalent to discontinued individual monitoring and study efforts. If a Discharger or Discharger group fails to maintain adequate participation in the Delta RMP, as determined through criteria to be developed by the Delta RMP Steering Committee, the Steering Committee will recommend to the Central Valley Water Board that an individual monitoring program be reinstated for that Discharger or Discharger group.

If the Discharger is participating in the Delta Regional Monitoring Program as described in Attachment E, Section VIII, the Receiving Water portion of the required Characterization Monitoring need not be conducted by the Discharger. Instead, data from the Delta Regional Monitoring Program will be utilized to characterize the receiving water ~~for the next~~ in the permit renewal. The Discharger may, however, conduct any site-specific receiving water monitoring deemed appropriate by the Discharger and submit that monitoring data with this Characterization Monitoring. In general, monitoring data from samples collected in the immediate vicinity of the discharge will be given greater weight in permitting decisions than receiving water monitoring data collected at greater distances from the discharge point. Historic receiving water monitoring data taken by the Discharger and from other sources may also be evaluated to determine whether or not that data is representative of current receiving water conditions. If found to be representative of current conditions, then that historic data may be used in characterizing receiving water quality for the purposes of Reasonable Potential analysis.

**RESPONSE:** We concur with the proposed changes and have modified the proposed Order accordingly.

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## **CITY OF STOCKTON (STOCKTON) COMMENTS**

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### **Stockton Comment No. 1. Delta RMP Funding Structure**

Stockton requests that the Central Valley Water Board work with stakeholders to develop the funding structure for the Delta RMP as soon as possible in a manner that is fair and equitable for all parties. In addition, the financial responsibilities of the Delta RMP should not be focused primarily on publicly-owned treatment works but instead be equitably shared amongst all parties throughout the state that rely upon the Sacramento-San Joaquin Delta.

**RESPONSE:** See USEPA Comment 4 response and CSPA Comment 3 response.

### **Stockton Comment No. 2. Compliance Monitoring**

Stockton encourages the Central Valley Water Board to make a clarification regarding what data will and will not be used, either Delta RMP or other, for compliance purposes for surface water Dischargers. Specifically, Stockton requests a definition of when Delta RMP data could be used for compliance purposes (e.g. to define receiving water background quality) and when use of Delta RMP data for assessing POTW compliance would not be appropriate (e.g. for assessing individual POTW compliance with receiving water limitations when monitoring locations are not conducive for doing so).

**RESPONSE:** See CSPA comment 2 response and CVCWA comment I response.

### **Stockton Comment No. 3.**

Stockton would like to participate in the Delta RMP's further development and refinement, in particular, assisting with the development of appropriate state-wide funding mechanisms and in how Delta RMP data will be used for assessing Delta POTW permit compliance.

**RESPONSE:** Comment noted. Thank you for your participation.

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## **STATE WATER CONTRACTORS AND WESTLANDS WATER DISTRICT (PUBLIC WATER AGENCIES) COMMENTS**

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### **Public Water Agencies Comment No. 1. Potential Data Gaps**

The Public Water Agencies are concerned that since the details of the Delta RMP are unknown at this time and the adoption of this tentative Order would allow Dischargers to participate in the Delta RMP in lieu of conducting their current receiving water monitoring requirements, there could be a large gap in water quality data. The Public Water Agencies would like to see the tentative Order include a detailed analysis of the existing receiving water monitoring and how it compares to the monitoring conducted under the Delta RMP.

**RESPONSE:** See USEPA Comment 1 response.

## **Public Water Agencies Comment No. 2. Prior Review and Approval of Participation**

The Public Water Agencies would like the tentative Order to be revised to require Central Valley Water Board Executive Officer approval of participation of the Delta RMP.

**RESPONSE:** To participate or not participate in the Delta RMP is the decision of the individual Discharger. The adequacy of participation in the Delta RMP is a decision by the RMP Steering Committee. Unless one of these tenets is changed, there is nothing for the Executive Officer to “approve.”

## **Public Water Agencies Comment No. 3. Level of Required Participation**

The Public Water Agencies would like the level of required participation in the Delta RMP to be clarified in the tentative Order. The tentative Order includes language stating that if the Discharger participates in the Delta RMP, the receiving water monitoring is not required as long as the Discharger “adequately supports the Delta RMP”. The Public Water Agencies would like tentative Order to be revised to specifically define “adequately supports.” The tentative Order states that the criteria for determining adequate participation will be developed by the Steering Committee. The Public Water Agencies believe these criteria should be developed and included as revisions to the tentative Order for full review and vetting by the public and the Central Valley Water Board.

**RESPONSE:** See USEPA Comment 2 response.

## **Public Water Agencies Comment No. 4. Additional Cost Information**

As part of the Delta RMP development process, the Public Water Agencies believe the Central Valley Water Board should collect information from Dischargers on their current receiving water monitoring costs. This information should be reviewed for reasonableness and compared to costs for similar monitoring programs. The revisions to each of the individual discharge permits in the tentative Order should include a requirement to contribute, at a minimum, the amount of money that is currently spent on the receiving water monitoring to the Delta RMP. The proposed amendments to each of the individual permits contain a paragraph justifying the need for a Delta RMP that states, *“However, the equivalent funds spent on current monitoring efforts could be used more efficiently and productively, and provide a better understanding of geographic and temporal distributions of contaminants and physical conditions in the Delta, and of other Delta water quality issues, if those funds were used for a coordinated ambient monitoring effort, rather than continue to be used in individual, uncoordinated ambient water quality monitoring programs.”* This requires knowledge of both the amount of funds spent on current monitoring and on the constituents and geographic and temporal scope of existing monitoring programs.

**RESPONSE:** We agree that “adequate participation” and “equivalent funds” are not well defined. The Delta RMP is a stakeholder run organization and such judgments should be left to the Delta RMP Steering Committee. POTWs in the Delta RMP did try to determine monitoring costs but each agency budgets differently, there is no standard way of apportioning fixed and personnel costs between various activities, and organizational structures vary. After considerable effort it was determined that further evaluation of the costs was not going to be productive.

### **Public Water Agencies Comment No. 5. Evaluate Current Monitoring Information**

The Public Water Agencies believe current monitoring information should be evaluated to ensure the Delta RMP provides for sufficient coverage. The Central Valley Water Board should develop a database of the existing receiving water monitoring that is conducted by the Dischargers who will be covered by this Order. This should include constituents, analytical methods, detection limits, frequency of monitoring, and locations where monitoring is conducted. This information should then be used to ensure that the Delta RMP includes a level of monitoring that addresses the key constituents and key locations.

**RESPONSE:** See USEPA comment 1 and 2 responses.

### **Public Water Agencies Comment No. 6. Compliance Monitoring**

The Public Water Agencies would like the mechanisms for continued compliance monitoring to be clarified in the tentative Order as it is not clear how compliance with receiving water limitations in the permit will be determined if the Discharger is not required to monitor the receiving water and the Delta RMP data will not be used. The proposed amendments to individual permits in the tentative Order state that, *“Delta RMP data is not intended to be used directly to represent either upstream or downstream water quality for purposes of determining compliance with this Permit.”* This language appears to conflict with other text stating, *“Instead, data from the Regional Monitoring Program will be utilized to characterize the receiving water for the next permit renewal.”* The Public Water Agencies request clarification to this issue, as it appears inconsistent to say on the one hand that the Delta RMP data would not be adequate for determining compliance with the permit, but still be appropriate for use when characterizing the receiving water for the permit renewal.

**RESPONSE:** See CSPA comment 2 response and CVCWA comment I response.

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## **CONTRA COSTA WATER DISTRICT (CCWD) COMMENTS**

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In general, CCWD is concerned that the tentative Order is premature and not ready for the Central Valley Water Board to consider until significant questions about the Delta RMP are addressed.

### **CCWD Comment a. Compliance Monitoring**

CCWD would like the Central Valley Water Board to detail how data collected as part of the Delta RMP will be used to determine compliance for individual Dischargers.

**RESPONSE:** See CSPA comment 2 response and CVCWA comment I response.

**CCWD Comments b, c, d, e, f, and i. Delta RMP Details**

CCWD would like the Central Valley Water Board to include multiple details in the tentative Order regarding the Delta RMP, including the following: 1) a detailed map of Delta RMP monitoring site locations, 2) a list of constituents measured and the frequency of sampling, 3) discuss coordination with other sampling programs in the Delta and the San Francisco Bay RMP, and 4) the schedule for the Delta RMP development.

**RESPONSE:** See USEPA Comment 2 response.

**CCWD Comments g and h. Cost to Participate in Delta RMP**

CCWD would like the Central Valley Water Board to detail the annual cost incurred by Dischargers participating in the Delta RMP as well as how costs are divided among the participating agencies and Dischargers.

**RESPONSE:** See USEPA Comments 3 and 4 response.