



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105**

Certified Mail No. 7008 3230 0000 3863 1406  
Return Receipt Requested

October 25, 2012

Diana C. Messina  
Supervising Engineer  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670

Re: Tentative Order Amending NPDES Permit for the City of Brentwood Wastewater Treatment Plant (NPDES Permit No. CA0082660)

Dear Ms. Messina:

Thank you for the opportunity to review and comment on the proposed amendment to the permit (NPDES Permit No. CA0082660) for the discharge from the City of Brentwood WWTP to Marsh Creek, which was public noticed on September 24, 2012. We were not afforded the opportunity to review and comment on a preliminary draft version of this amendment. We have concerns about the proposed amendment that need to be addressed to ensure the permit effectively protects water quality and complies with NPDES requirements. Specifically, we are concerned with the compliance schedule milestones for chloride. Pursuant to 40 CFR 123.44, we reserve the right to object to issuance of the amended permit if our concerns are not addressed.

The proposed compliance schedule extension for chloride does not meet the requirements of the Clean Water Act. Section 502(17) of the CWA and the implementing regulations at 40 CFR 122.2 define a compliance schedule as an "enforceable sequence of actions or operations leading to compliance with an effluent limitation..." The proposed compliance schedule includes studies and reports as interim requirements (milestones). These interim requirements are not sufficient to meet the requirements at 40 CFR 122.47(a)(3), which provides the following examples of interim requirements, "(a) submit a complete Step 1 construction grant (for POTWs); (b) let a contract for construction of required facilities; (c) commence construction of required facilities; (d) complete construction of required facilities." The regulations at 40 CFR 122.47(a)(3)(ii) allow progress reports to be included if the interim requirements cannot be readily divisible into 1-years increments, but reports alone are not acceptable as interim requirements. The recently adopted compliance schedules for Mt. Shasta and Dunsmuir provided an appropriate mix of action-based milestones and reporting milestones, consistent with federal regulatory requirements.

Without appropriate interim requirements, the permitting authority cannot ensure that the compliance schedule will “lead[ ] to compliance with the CWA and regulations...as soon as possible, but no later than the applicable statutory deadline under the CWA.” 40 CFR 122.47(a)(1). It appears that the 5-year compliance schedule included in the existing permit did not include interim requirements sufficient to ensure compliance “as soon as possible,” as required by 40 CFR 122.47(a)(1). The compliance schedule extension in the proposed amendment also does not include sufficient interim requirements to ensure compliance “as soon as possible.” To ensure the compliance schedule meets this requirement, the Regional Board must consider the specific steps needed to modify or install treatment facilities, operations or other measures and the time those steps would take.

We appreciate the opportunity to provide input on the draft permit and we look forward to discussing these issues with you and your staff to seek a mutually satisfactory resolution. Please contact me at (415) 972-3464 or Elizabeth Sablad of my staff at (415) 972-3044 to set up a followup meeting or call.

Sincerely,



David Smith, Manager  
NPDES Permits Office (WTR-5)

cc: Victoria Whitney, SWRCB