



CVCWA

Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies

MICHAEL RIDDELL – Chair, City of Riverbank **TERRIE MITCHELL – Vice Chair, Sacramento Regional CSD**
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February 10, 2014

Via Electronically Only

Mr. Scott Gilbreath
Water Resource Control Engineer
Regional Water Quality Control Board,
Central Valley Region
364 Knollcrest Drive, Suite 205
Redding, CA 96002
sgilbreath@waterboards.ca.gov

RE: Comments on the Tentative Waste Discharge Requirements Order R5-2014-XXXX, City of Shasta Lake Wastewater Treatment Facility, Shasta County

Dear Mr. Gilbreath:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to submit comments on the tentative Waste Discharge Requirements for the City of Shasta Lake (City) Wastewater Treatment Facility (Tentative Order). CVCWA is a non-profit association of public agencies located within the Central Valley region that provide wastewater collection, treatment, and water recycling services to millions of Central Valley residents and businesses. We approach these matters with the perspective of balancing environmental and economic interests consistent with state and federal law. In this spirit, we provide the following comments regarding duplicative requirements in the Monitoring and Reporting Program (MRP), the inclusion of the City's collection system as facilities subject to the permit, and language suggesting that the Central Valley Regional Water Quality Control Board (Regional Board) conducted an analysis under Water Code section 13241 (Section 13241).

I. Duplicative Requirements in the MRP

In the Tentative Order, the MRP includes inconsistent directions on priority pollutant monitoring for the effluent. According to Attachment E, section IX.C.1 and Table E-11, the City must conduct semiannual priority pollutant monitoring of the effluent from monitoring location EFF-001 during the third and fourth year of the permit (i.e., 2016 and 2017).¹ According to Attachment E, section IV.A.1 and Table E-3, priority pollutant sampling must also be conducted quarterly during the year 2016.² This latter provision is unnecessary given the extensive monitoring the Regional Board requires under the Effluent and Receiving Water Characterization Study. Moreover, the “Note” in section IX.C.1³ does not alleviate the burden of additional monitoring or clarify any confusion. At best, the Note merely eliminates the duplicative semiannual effluent monitoring under section IX.C.1 for priority pollutants during 2016. The discharger would still be required to test quarterly during 2016 under section IV.A.1, and twice again during 2017 under section IX.C.1.

CVCWA recommends deleting footnote 17 to Table E-3. The monitoring for priority pollutants required by the Effluent and Receiving Water Characterization Study in Attachment E, section IX.C is sufficient for a discharger of this size.

II. Collection System

The Tentative Order states that the City’s “collection system is part of the system that is subject to this Order,” and as such, the City “must operate and maintain its collection system . . . and mitigate and discharge from the collection system in violation of this Order.”⁴ However, the State Water Resources Control Board (State Board) regulates sanitary sewer systems greater than one mile in length that collect and convey untreated or partially treated wastewater to treatment facilities under the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Order No. 2006-0003-DWQ (State Board Order No. 2006-0003-DWQ). State Board Order No. 2006-0003-DWQ requires enrollees, which includes municipalities that operate sanitary sewer systems, to develop sewer system management plans and other measures to prevent sanitary sewer overflows.⁵

Sanitary sewer systems pose unique challenges for water quality regulation, and the State Board has adequately addressed these challenges in State Board Order

¹ Tentative Order at pp. E-13 to E-14.

² Tentative Order at p. E-6.

³ The Tentative Order states “Note: Duplicative monitoring for a priority pollutant is not required. If monitoring and reporting for a priority pollutant listed in Table E-11 is already required in this Order, the Discharger is not required to perform additional, duplicative monitoring and reporting as specified in this section.” (*Id.* at p. E-14.)

⁴ *Id.* at p. 22.

⁵ State Board Order No. 2006-0003-DWQ at pp. 2-3, 10-15.

No. 2006-0003-DWQ with which the City must comply. The Regional Board does not need to regulate collection systems further in the City's NPDES permit.⁶ Not only does the inclusion of the collection systems as part of the NPDES permit represent duplicative regulation, it subjects the City to possible third party lawsuits because any sanitary sewer overflow will violate the permit's Discharge Prohibitions.

To the extent that federal regulations require publicly-owned treatment works to properly operate and maintain all facilities and systems of collection, such requirements are adequately contained in the Standard Provisions.⁷ With respect to other provisions, such as Discharge Prohibitions and specific collection system requirements in the Tentative Order, the inclusion of collection systems in the manner as provided in the Tentative Order may subject the City to duplicative liability for sanitary sewer overflows that may reach waters of the United States. CVCWA understands that such discharges are not authorized and constitute a violation of the Clean Water Act. However, by also having collection systems subject to the Discharge Prohibitions in the Tentative Order, such discharges become a permit violation as well as an unauthorized discharge.

CVCWA asks that the Regional Board delete the finding on page 22 of the Tentative Order, stating that the collection system is subject to the Order. Instead, CVCWA recommends adopting the following language, consistent with the Waste Discharge Requirements recently adopted for the City of Lincoln Wastewater Treatment and Reclamation Facility:

e. Collection System. On 2 May 2006, the State Water Board adopted State Water Board Order No. 2006-0003-DWQ, Statewide General WDRs for Sanitary Sewer Systems. The Discharger shall be subject to the requirements of Order No. 2006-0003-DWQ and any future revisions thereto. Order No. 2006-0003-DWQ requires that all public agencies that currently own or operate sanitary sewer systems apply for coverage under the general WDRs. The Discharger has applied for and has been approved for coverage under Order 2006-0003-DWQ for operation of its wastewater collection system. The Discharger's collection system is part of the system that is subject to this Order. As such, the Discharger must properly operate and maintain its collection system (40 C.F.R. § 122.41(e)). The Discharger must report any non-compliance (40 C.F.R. § 122.41(l)(6) and (7)) and mitigate any discharge from the collection system in violation of this Order (40

⁶ The Regional Board has not regulated collection systems in other NPDES Permits. For instance, in Order R5-2013-0146 (NPDES No. CA0079391) for the City of Jackson Wastewater Treatment Plant, the Regional Board, in paragraph VI.C.5.b, provided that "[t]he Discharger shall be subject to the requirements of Order No. 2006-0003-DWQ and any future revisions thereto," but did not subject the Discharger's collection system to the discharge prohibitions in the permit.

⁷ See Tentative Order, Attachment D, Standard Provision I.D at p. D-1 ["The Discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Discharger to achieve compliance with the conditions of this Order."].

~~C.F.R. § 122.41(d)). See the Order at Standard Provision VI.A.2.c and Attachment D, subsections I.D, V.E, V.H, and I.C.~~

In addition, CVCWA recommends revising language in the standard Discharge Prohibition to protect municipalities from allegations that sanitary sewer overflows are also violations of NPDES permits. Accordingly, Discharge Prohibition III.A on page 4 of the Tentative Order should be revised as follows:

- A. Discharge of wastewater from the Facility, as the Facility is specifically described in the Fact Sheet in section II.B, at a location ~~or~~ in a manner different from that described in this Order is prohibited.

To explain further the distinction intended by using the term “Facility” in the Discharge Prohibition, the following discussion should be added to section IV.A.1 of the Fact Sheet at page F-15:

1. Prohibition III.A. (No discharge or application of waste other than that described in this Order). This prohibition is based on Water Code section 13260 that requires filing of a ROWD before discharges can occur. This prohibition applies specifically to discharges from the wastewater treatment facility and does not apply to the collection system. The collection system is governed by State Water Board Order No. 2006-0003-DWQ and any future revisions thereto. The Discharger submitted a ROWD for the discharges described in this Order; therefore, discharges not described in this Order are prohibited.

This is a reasonable approach that avoids duplicative regulation and unintended lawsuits, and CVCWA respectfully requests that the Regional Board revise the Tentative Order accordingly.

III. Section 13241 Analysis

The Tentative Order acknowledges that it contains effluent limitations and other restrictions for total coliform organisms that are more stringent than applicable federal requirements. The Tentative Order then states that the Regional Board has considered the Section 13241 factors in section IV.C.3.d.viii of the Fact Sheet.⁸ No such discussion is included in section IV.C.3.d.viii of the Fact Sheet. CVCWA assumes this language is carried over from the predecessor permit, Order No. R5-2008-0037, and was included in the Tentative Order in error. Nonetheless, to avoid any confusion regarding the requirements for a proper Section 13241 analysis, CVCWA requests that this sentence from page F-63 of the Fact Sheet be deleted.

⁸ Tentative Order at p. F-63.

IV. Reasonable Potential Analysis for Pathogens

The Tentative Order includes the conclusion that the possibility of inadequate disinfection creates the potential for pathogens to be discharged, and thus, the discharge has reasonable potential to cause or contribute to an exceedance of the Basin Plan's narrative toxicity objective.⁹ CVCWA has conveyed its concerns to the Regional Board regarding this interpretation of the narrative toxicity objective and the regulation of pathogens as a toxic substance in previous written comment letters and oral testimony before the Regional Board hearings. Put simply, the regulation of pathogens is not related to the narrative toxicity objective. Accordingly, CVCWA requests that the following language from page F-49 of the Fact Sheet be deleted: "Although the Discharger provides disinfection, inadequate or incomplete disinfection creates the potential for pathogens to be discharged and provides the basis for the discharge to have a reasonable potential to cause or contribute to an exceedance of the Basin Plan's narrative toxicity objective."

We appreciate your consideration of these comments. If you have any questions or if CVCWA can be of further assistance, please contact me at (530) 268-1338 or eeofficer@cvcwa.org.

Sincerely,



Debbie Webster,
Executive Officer

cc (via email): Pamela Creedon, Central Valley Regional Water Quality Control Board

⁹ *Id.* at p. F-49