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NOTICE

TENTATIVE NPDES PERMIT AND WASTE DISCHARGE REQUIREMENTS FOR CITY OF ATWATER WASTEWATER TREATMENT FACILITY MERCED COUNTY

TO ALL INTERESTED PERSONS:

On 13 April 2005, the Central Valley Regional Water Quality Control Board (Regional Water Board) circulated Tentative Waste Discharge Requirements (TWDRs) for the City of Atwater Wastewater Treatment Facility. Comments on the TWDRs were submitted by the City of Atwater (City) on 1 June 2005. The TWDRs were revised based on the comments and were recirculated for comment on 11 July 2006. Written comments from interested parties were required by public notice to be received by 18 August 2006 to receive full consideration. Comments on the TWDRs were received by the deadline from the City and the California Sportfishing Protection Alliance (CSPA).

Written comments from the City and CSPA are summarized below, followed by the responses of Regional Water Board staff.

CITY OF ATWATER COMMENTS

CITY – COMMENT 1: The final effluent limitations for ammonia and electrical conductivity are new requirements; therefore, compliance schedules and interim limitations should be included in the permit, not a separate time schedule order.

RESPONSE: As indicated in our letter of 18 August 2006, the TWDRs have been revised to include a compliance schedule to comply with the final ammonia effluent limitations. Interim limitations and a compliance schedule have not been proposed for electrical conductivity (see Response to Comment 3).

CITY – COMMENT 2: The hardness concentration used to develop the final effluent limitations for copper, lead, and zinc are overprotective and not representative of the Atwater Drain downstream of the discharge. The TWDRs should be revised to include a provision that

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requires the City to conduct a receiving water hardness assessment to develop information that could be used to establish the appropriate water quality objectives for the receiving water. The TWDRs should also include a provision allowing reconsideration of the final effluent limitations for copper, lead, and zinc based upon the results of the hardness assessment.

RESPONSE: 40 CFR 131.38(c)(4)(i) (*California Toxics Rule*) states, “For purposes of calculating freshwater aquatic life criteria for metals from the equations in paragraph (b)(2) of this section, for waters with a hardness of 400 mg/L or less as calcium carbonate, the actual ambient hardness of the surface water shall be used in those equations.” The State Water Resources Control Board’s *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (known as the State Implementation Policy—SIP) requires the same. Effluent limitations for the discharge must be set to protect the beneficial uses of the receiving water for all discharge conditions. In the absence of the option of including condition-dependent, “floating” effluent limitations that are reflective of actual conditions at the time of discharge, effluent limitations must be set using the worst-case condition (*e.g.*, lowest ambient hardness) to protect beneficial uses for all discharge conditions.

We concur with the City that downstream hardness data is preferable for establishing hardness-dependant metals criteria in the Atwater Drain; however, no downstream data has been provided. Thus, the proposed effluent limitations are based on the lowest measured upstream hardness.

Developing effluent limitations based on the lowest measured upstream hardness may be overprotective. The TWDRs have been revised to include a provision requiring the City to conduct a receiving water hardness study. The study will be subject to Executive Officer approval. Pending Executive Officer approval of the receiving water hardness proposed in the study, the Order will be reopened for consideration of modified effluent limitations for metals with hardness-dependent criteria.

CITY – COMMENT 3: Due to operational changes needed to comply with the total residual chlorine effluent limitations, it cannot be concluded that the City can comply with the final effluent electrical conductivity limitation of 700 $\mu\text{mhos/cm}$, as a monthly average. Specifically, the City will need to increase the dechlorination agent dosing rate to comply with the total residual chlorine effluent limitations, which will in turn increase the electrical conductivity of the discharge. Consequently, the City requests that the TWDRs include a compliance schedule and an interim electrical conductivity limitation of 782 $\mu\text{mhos/cm}$.

RESPONSE: The requested change has not been made. As detailed in our 11 July 2006 response to comments letter, the City’s self monitoring reports from June 2002 through 30 April 2006 indicate that the WWTF’s discharge comfortably meets the proposed electrical conductivity effluent limitation. The City has not provided any evidence that increased dosing of calcium thiosulfate will affect the City’s ability to comply with the proposed monthly average electrical conductivity effluent limitation of 700 $\mu\text{mhos/cm}$.

The proposed final effluent limitation of 700 $\mu\text{mhos/cm}$ has been determined by staff to be relevant and appropriate at this time for reasons explained in our 11 July 2006 response to comments letter and further explained in the revised TWDRs. Nonetheless, should the City pursue an investigation of whether an EC greater than 700 $\mu\text{mhos/cm}$ represents its best efforts and is reasonably protective of AGR, the TWDRs have been revised to include a provision that specifies the information that must be included in such an investigation. Pending an Executive Officer decision that any investigation result warrants reconsideration of the EC effluent limitation, the proposed TWDRs include a reopener for consideration of a revised EC effluent limitation.

CITY – COMMENT 4: Reasonable potential for chronic toxicity has not been clearly established. Chronic toxicity testing results are suspect and may not be representative of actual conditions. For example, the laboratory control water exhibited toxicity similar to that of the effluent and there was intermittent toxicity in the receiving water used for the toxicity testing dilution series. Thus, Provision 12 requiring the City to initiate a toxicity reduction evaluation (TRE) should be removed from the TWDRs.

RESPONSE: Provision 12 requiring the City to initiate a TRE within 90 days of permit adoption has been removed from the TWDRs. The water flea (*Ceriodaphnia dubia*) reproduction results from February 2003 to May 2006 report a chronic toxicity unit (TU_c) greater than one in seven of 14 tests. It appears the dechlorination agent used by the laboratory may have caused toxicity in some of the tests, which may not be representative of the effluent from the WWTF. In other tests where the TU_c was greater than one, the test results for the 100 percent effluent show the effluent meets the test acceptability criteria for control purposes.

Algae (*Selenastrum capricornutum*) growth test results from February 2002 to May 2006 show a TU_c greater than one in three of eighteen tests. Two of the three algae growth tests where the TU_c was greater than one show that the 100 percent effluent meets the test acceptability criteria for control purposes.

Provision 8 requires the City to submit a TRE work plan within 90 days of permit adoption for Executive Officer approval. The TWDRs require the City to comply with a numeric monitoring trigger for conducting accelerated chronic WET monitoring and a protocol for requiring the City to initiate an approved TRE if a pattern of toxicity is demonstrated.

CITY – COMMENT 5: The City requests a six month delay for meeting the continuous chlorine residual monitoring requirement at a detection limit of 0.01 mg/L or less. The existing analyzer must be taken offline periodically and calibrated using a laboratory unit that has a detection limit of 0.05 mg/L. The six months will allow the City time to purchase a laboratory chlorine test unit with a detection limit of 0.01 mg/L and time to purchase a second online analyzer. In the interim, the existing online analyzer will be used (at a detection limit of 0.05

mg/L) except for periods it is taken offline for calibration. During calibration periods, grab samples will be collected every 15 minutes.

RESPONSE: The requested change has been made.

CITY – COMMENT 6: Finding 40.g should be modified to indicate that the existing online chlorine residual analyzer monitors continuously, except for when it is periodically taken offline for calibration.

RESPONSE: Finding 40.g has been modified as follows:

“Total Residual Chlorine: The Basin Plan prohibits the discharge of toxic materials in toxic concentrations. The City uses chlorine to disinfect the effluent. Chlorine can cause toxicity to aquatic organisms when discharged to surface waters. The use of chlorine as a disinfectant presents a reasonable potential that it could be discharged in toxic concentrations. The USEPA recommends, in its *Ambient Water Quality Criteria for the Protection of Fresh Water Aquatic Life*, a maximum chlorine concentration (1-hour average) of 0.019 mg/L and a continuous chlorine concentration (4-day average) of 0.011 mg/L for protection of aquatic life. Using the methodology in the USEPA’s *Technical Support Document for Water Quality Based Toxics Control (1991)* (TSD), the average monthly effluent limitation (AMEL) is 0.01 mg/L and the maximum daily effluent limitation (MDEL) is 0.02 mg/L for chlorine. Monitoring for this constituent occurs on a continuous basis, except for periodic occasions when the existing analyzer must be taken offline for calibration. The City is in the process of purchasing and installing a second analyzer so the effluent can be monitored continuously without interruption. This Order gives the City six months to install the second analyzer. In the interim, this Order requires continuous monitoring using the existing analyzer and grab samples every 15 minutes when the analyzer is taken offline for calibration.”

CITY – COMMENT 7: The City requests that Finding 43.a, 43.b, and 43.c include language stating that the hardness used to develop the effluent limitations for copper, lead, and zinc may not be representative of downstream receiving water conditions; therefore, a receiving water hardness assessment is required by the permit and following completion of the study, the permit may be reopened to modify the copper, lead, and zinc effluent limitations.

RESPONSE: The requested additional language has not been included in Finding 43.a, 43.b, or 43.c. However, the following finding (Finding 44) has been added to the TWDRs:

“The reasonable potential analysis and effluent limitations for metals with hardness-dependent criteria are based on lowest observed hardness concentration (22 mg/L as CaCO₃) in the Atwater Drain upstream of the WWTF discharge. As described in Finding 26, the Atwater Drain at the WWTF outfall is effluent dominated the majority

of the year. Under these conditions, the effluent hardness significantly influences downstream hardness concentrations. Thus, using the lowest observed upstream hardness concentration to perform a reasonable potential analysis and establish effluent limitations might be overprotective. No downstream hardness data is available. Provision G.17 of this Order requires the City to submit a receiving water hardness study work plan for Executive Officer approval. Upon full implementation of the approved work plan, the proposed receiving water hardness concentration will be subject to Executive Officer approval. Pending Executive Officer approval, this Order will be reopened for consideration of revised effluent limitations for metals with hardness-dependent criteria.”

CITY – COMMENT 8: The City requests that Finding 46 be deleted from the TWDRs since reasonable potential for chronic toxicity has not been demonstrated.

RESPONSE: Finding 46 has not been removed from the TWDRs. See Response to Comment 4.

CITY – COMMENT 9: The City requests that the following footnote be added to the daily maximum and average monthly chlorine residual effluent limitations:

“Prior to 22 May 2007, compliance with these limitations can be demonstrated using a single chlorine residual analyzer with a minimum detection limit of 0.05 mg/L.”

RESPONSE: The requested footnote has not been included in the TWDRs. However, a footnote (footnote 2) has been added to the total residual chlorine effluent monitoring requirements in the Monitoring and Reporting Program stating the following:

“Prior to 7 June 2007, grab samples every 15 minutes may be taken at E-2 during calibration of the online analyzer. The detection limit of the monitoring system at E-2 prior to 7 June 2007 shall be ≤ 0.05 mg/L. Beginning 7 June 2007, the effluent shall be monitored at E-2 continuously at all times and the detection limit of the monitoring system shall be ≤ 0.01 mg/L.”

CITY – COMMENT 10: The City requests the footnote presented below be added to the daily maximum and average monthly chlorine residual effluent limitations. The footnote is based on the State Water Resources Control Board’s proposed Total Residual Chlorine and Chlorine-Produced Oxidants Policy.

“If an apparent exceedance of the chlorine residual limit occurs, and if a back-up monitoring system is in service at the time of the apparent exceedance, then any reported exceedance not corroborated by the back-up system will not be considered as an exceedance, but rather reported as a false positive.”

RESPONSE: The requested footnote has not been included in the effluent limitations exactly as proposed, but the following footnote has been added:

“If the City can demonstrate through data collected from the City’s back-up monitoring system that a chlorine spike recorded by the continuous monitor was not actually due to chlorine, then the recorded spike will be considered and reported as a false positive.”

CITY – COMMENT 11: The City requests a footnote be added to Effluent Limitations B.5 for the final and interim effluent limitations for copper, lead, and zinc stating that the hardness used to derive the effluent limitations may not be representative of the downstream receiving water conditions; therefore a receiving water hardness assessment is required by the permit and following completion of the study, the permit may be reopened to modify the copper, lead, and zinc effluent limitations.

RESPONSE: The requested footnote has not been included in Effluent Limitations B.5., as it is unnecessarily repetitive. The new finding (Finding 44) described in the Response to Comment 7 and the new provision requiring a receiving water hardness study address the information in the requested footnote.

CITY – COMMENT 12: It is not clear from Receiving Water Limitation D.1 how the City should calculate the monthly median of the mean daily dissolved oxygen or the saturation in the main water mass. The City requests that the TWDRs clarify how and when this limitation applies, how each of the measurements is to be determined, and which background values are to be used for comparison. Alternatively, the City requests the last sentence in Receiving Water Limitation D.1 be eliminated.

RESPONSE: Receiving Water Limitation D.1 is based on the dissolved oxygen objective in the *Water Quality Control Plan; Fourth Edition, for the Sacramento and San Joaquin River Basins* (Basin Plan). Thus, the limitation applies at all times. Compliance with this limitation will be determined using the dissolved oxygen and temperature measurements required at R-1 and R-2 in the Monitoring and Reporting Program. Dissolved oxygen and temperature measurements at R-1 will be used to evaluate whether the discharge has caused or contributed to an exceedance of the dissolved oxygen objective.

Receiving Water Limitation D.1 has been revised to indicate how to calculate monthly median of the mean daily dissolved oxygen concentration and the 95-percentile concentration. The limitation reads as follows:

“Concentrations of dissolved oxygen to fall below 5.0 mg/L. The monthly median of the mean daily dissolved oxygen concentration shall not fall below 85 percent of saturation in the main water mass, and the 95-percentile concentration shall not fall below 75 percent saturation. The monthly median of the mean daily dissolved oxygen concentration and the 95-percentile

concentration shall be determined as follows: (1) calculate the percent of saturation for each monitoring event during the month (based on the temperature for each monitoring event), (2) calculate the median of all the percent of saturation values computed during the month, and (3) calculate the 95th percentile of all the percent of saturation values computed during the month.”

CITY – COMMENT 13: Receiving Water Limitation D.14 states that a minimum of five samples within a 30-day period are needed to calculate the geometric mean. The Monitoring and Reporting Program only requires weekly sampling, which means only four samples will likely be available in any 30-day period. The City requests that either the receiving water limitation be removed from the TWDRs or the change the limitation to state that only four samples within a 30-day period are necessary to calculate the mean.

RESPONSE: Receiving Water Limitation D.14 has not been removed or modified. Receiving Water Limitation D.14 is the bacteria objective in the Basin Plan for protection of the REC-1 beneficial use and, as REC-1 is a use of the Atwater Drain (Finding 33), is an appropriate and necessary part of the permit. The proposed Monitoring and Reporting Program has been revised to require the City to collect two fecal coliform receiving water samples per week.

CITY – COMMENT 14: The City requests that Provision G.6 be revised for clarity as follows:

“**By 22 March 2007**, the City shall submit a Use Site Control Plan that identifies ~~the hazards of discharge to the Atwater Drain and~~ what actions the City will provide to notify the public that the water in the Atwater Drain is wastewater treatment plant effluent and that it does not meet the California Department of Health Services criteria for full water contact recreation. The Use Site Control Plan shall contain a map depicting the locations of all signs posted in accordance with Provision G.7. Each sign depicted on the map shall be assigned a unique number to facilitate monitoring for compliance with this discharge specification.”

RESPONSE: The requested revision to Provision G.6 has been made.

CITY – COMMENT 15: The City asserts that reasonable potential for chronic toxicity has not been clearly established. Consequently, the City requests that the first paragraph in Provision G.8 be revised as follows:

“Should WWTF effluent exhibit toxicity ~~subsequent to implementation of Provision G.12~~, the City shall comply with the procedures below (a. through c.). These procedures establish a toxicity numeric monitoring trigger for accelerated chronic toxicity monitoring and TRE initiation.”

RESPONSE: See Response to Comment 4.

CITY – COMMENT 16: Since Provision G.12 requires the submittal of a TRE Work Plan, Provision 8.c.(3) should not require the submittal of a second TRE Work Plan.

RESPONSE: See Response to Comment 4.

CITY – COMMENT 17: Given the City's assertion that reasonable potential for chronic toxicity has not been clearly established, the City requests that Provision G.12 be revised as follows:

“By 22 March 2007, the City shall submit to the Regional Water Board a TRE Work Plan for Executive Officer approval. The TRE Work Plan shall outline the procedures for identifying the source(s) of, and reducing or eliminating effluent toxicity. The TRE Work Plan shall be developed in accordance with EPA guidance¹, contain a schedule for implementing the TRE, and be of adequate detail to allow the City to immediately initiate a TRE ~~upon Executive Officer approval~~ as required in Provision G.8.”

RESPONSE: See Response to Comment 4.

CITY – COMMENT 18: The City requests six months to complete the temperature/turbidity study work plan required by Provision G.13.

RESPONSE: Provision G.13 (now Provision G.12) has been modified to allow six months from the permit adoption date to submit a temperature study work plan. The revised TWDRs do not require a turbidity study (See Response to CSPA Comment 3).

CITY – COMMENT 19: The City requests a revision to the first paragraph in Provision G.15, as presented below. This revision will give the City adequate time to establish and monitor a background well before submitting a background characterization report.

“ . . . After the first sampling event, the City shall report on its sampling protocol as specified in this Order's MRP. After completion of Task d outlined below ~~one year of monitoring~~, the City shall characterize background quality . . . ”

RESPONSE: The requested modification to Provision G.15 (now Provision G.14) has been made.

CITY – COMMENT 20: The City requests that Provision G.17 be clarified as follows:

“Compliance with this Order's Groundwater Limitations will be evaluated based on data collected from approved groundwater monitoring wells following

completion of Provision G.15, Task f. If, following the completion of Provision G.15, Task f, groundwater passing under the sludge drying beds is found to be degraded, . . .”

RESPONSE: The requested modification to Provision G.17 (now Provision G.16) has been made.

CITY – COMMENT 21: The City requests that Provision G.18 be modified to indicate that the City does not currently have the capability to monitor continuously without interruption at a detection level of 0.01 mg/L and that the City is allowed six months to comply with the continuous monitoring requirement.

RESPONSE: The requested modification to Provision G.18 has not been made. Provision G.18 has been eliminated. As indicated in the Response to Comment 9, a footnote has been added to the total residual chlorine effluent monitoring requirements in the Monitoring and Reporting Program stating that six months are allowed to fully comply with the continuous monitoring requirement at a detection level of 0.01 mg/L.

CITY – COMMENT 22: The City requests several additional reopener provisions be included in the TWDRs.

RESPONSE: The following requested reopener provisions have been added to the TWDRs as Provisions 21 and 22:

- If new or amended applicable water quality standards are promulgated or approved pursuant to Section 303 of the CWA, or amendments thereto, this Order may be reopened and modified in accordance with the new or amended standards.
- This Order may be reopened and modified if information not available at the time of permit issuance becomes available, and the new information would have justified different permit conditions at the time of issuance.

The requested reopener provisions dealing with dilution credits and a water effects ratio study are unnecessary. If the City chooses to pursue these studies, the results of the study could be submitted and considered by Regional Water Board staff. If appropriate, the permit may be reopened under the second bulleted reopener provision above.

The requested reopener provisions concerning the temperature/turbidity study and the receiving water hardness study are unnecessary because they are included in Provision G.13 (now Provision G.12) and Provision G.17 (current revision of Provision G.17), respectively.

A reopener based on the salinity investigation that the City may pursue has been added to the TWDRs (currently Provision 18).

CITY – COMMENT 23: The City requests that the acute toxicity testing be moved from the Effluent Monitoring section of the Monitoring and Reporting Program to a separate Whole Effluent Toxicity Testing Requirements section.

RESPONSE: The requested move was made.

CITY – COMMENT 24: The City requests that dioxin monitoring be required on a quarterly basis with accelerated monitoring (monthly) required if the results of any quarterly monitoring event exceed the final dioxin effluent limitations. Quarterly monitoring would resume if the results of any monthly monitoring event indicate dioxin concentrations are less than the final effluent limitations. The basis for the request is that historical monitoring data shows dioxin is intermittently present at detectable levels and the significant cost of dioxin monitoring.

RESPONSE: The requested change was made.

CITY – COMMENT 25: The City requests that footnote 1 in the Effluent Monitoring section of the Monitoring and Reporting Program be modified as follows:

“Total chlorine residual samples shall be collected at the points labeled E-1 and E-2 on Attachment B. Monitoring at E-1 shall commence on the final compliance date established in Provision G.11, Task c. Monitoring at E-2 shall be every 15 minutes prior to 22 May 2007.”

RESPONSE: The requested modification has not been made. However, footnote 2 in the Effluent Monitoring section of the Monitoring and Reporting Program has been modified as presented in the Response to Comment 9. The changes to footnote 2 address the requested change to footnote 1.

CITY – COMMENT 26: The City requests that footnote 2 in the Effluent Monitoring section of the Monitoring and Reporting Program be modified as follows:

“The detection limit of the meter at E-2 shall be ≤ 0.05 mg/L prior to 22 May 2007. The detection limit of the meter at E-2 shall be ≤ 0.01 mg/L ~~or the detection limit approved by the Executive Officer after 22 May 2007 completion of Provision G.18.~~”

RESPONSE: The change has not been made exactly as requested. Footnote 2 in the Effluent Monitoring section of the Monitoring and Reporting Program has been modified as presented in the Response to Comment 9.

CITY – COMMENT 27: The City requests that footnote 15 in the Effluent Monitoring section of the Monitoring and Reporting Program be modified as follows:

“... Priority pollutant testing shall exclude Bromodichloro-methane, Chlorodibromo-methane, copper, lead, zinc, cadmium, mercury, nickel, selenium, and 2,3,7,8-TCDD (Dioxin), which are covered by separate monitoring requirements.”

RESPONSE: The requested change has been made (footnote 15 is now footnote 13 in the revised TWDRs).

CITY – COMMENT 28: The City requests that the Receiving Surface Water Monitoring section in the Monitoring and Reporting Program include a footnote indicating that the City's current method of calculating instantaneous flow at R-1 is acceptable. The City requests that the footnote detail how instantaneous flow is calculated at R-1.

RESPONSE: Footnote 1 in the Receiving Surface Water Monitoring section in the Monitoring and Reporting Program has been modified to read as follows:

“Only required at R-1. Instantaneous flow shall be determined at R-1. The City's method of estimating instantaneous receiving water flow is acceptable for meeting this monitoring requirement. This method involves measuring the time required for a floating object to travel through a culvert of known length upstream of the Atwater WWTF discharge point. Velocity is calculated by dividing the culvert length by the travel time. The water depth in the culvert is measured to calculate the flow area. Instantaneous flow is the product of the calculated velocity and flow area.”

CITY – COMMENT 29: The City does not currently have the equipment to monitor chlorine residual in the receiving water at a detection limit of 0.01 mg/L. The City requests six months before it is required to monitor the receiving water at a detection limit of 0.01 mg/L. In the interim, the City would use equipment with a detection limit of 0.05 mg/L.

RESPONSE: Footnote 3 in the Receiving Surface Water Monitoring section of the Monitoring and Reporting Program has been modified to read as follows:

“Minimum detection limit shall be ≤ 0.05 mg/L prior to 7 June 2007. Beginning 7 June 2007, the minimum detection limit shall be ≤ 0.01 mg/L.”

CITY – COMMENT 30: The City requests that the Monitoring and Reporting Program require annual priority pollutant monitoring in the Atwater Drain consistent with the effluent monitoring requirements.

RESPONSE: The requested change has been made. Footnote 5 in the Receiving Surface Water Monitoring section of the Monitoring and Reporting Program has been deleted.

CITY – COMMENT 31: Given that it does not appear that the City can meet the final ammonia effluent limitations, the City requests that it be allowed to eliminate ammonia-related toxicity during chronic toxicity testing until it is required to comply with the final ammonia effluent limitations.

RESPONSE: The Monitoring and Reporting Program has been revised to allow the City to eliminate ammonia-related toxicity during acute and chronic toxicity testing until the deadline established in Provision G.11, Task c.

CITY – COMMENT 32: The City requests that the Groundwater Monitoring section of the Monitoring and Reporting Program be expanded to allow the use of micropurge techniques in addition to traditional purging techniques (e.g., purging 3 to 5 well volumes).

RESPONSE: The first paragraph in the Groundwater Monitoring section of the Monitoring and Reporting Program has been modified to read as follows:

“Prior to collecting samples, the monitoring well shall be adequately purged to remove water that has been standing within the well screen and casing that may not be chemically representative of formation water. The method used for purging shall meet applicable EPA standards and be consistent with a monitoring well installation work plan approved by the EO.”

CITY – COMMENT 33: The City requests that the second to last and the last paragraphs in the Groundwater Monitoring section of the Monitoring and Reporting Program be revised to conform with the groundwater monitoring-related provisions in the permit. The specific requested revisions are as follows:

~~“After one full year after the completion of Provision G.15, Task d of groundwater monitoring,~~ the City shall analyze monitoring data from background well(s) to compute background water quality values for each constituent and to perform an initial assessment of whether there is evidence of an impact from the discharge. To complete this task, the City shall use monitoring data from background, internal and boundary monitoring wells in an appropriate data analysis method (e.g., Title 27 section 20415(e)(7-9)). Prior to the completion of Provision G.15, Task d, reports shall be submitted in accordance with the EO approved groundwater monitoring well implementation schedule. Reports thereafter shall be submitted quarterly by the 1st day of the second month after the prescribed sample collection and shall include the same analysis. Location shall be based upon and expressed as both latitude and longitude (NAD 1983) and California Coordinate System as surveyed.

Compliance with this Order's Groundwater Limitations will be evaluated based on data collected from approved groundwater monitoring wells following completion of Provision G.15, Task f. If the City, during any quarterly data evaluation following the completion of Provision G.15, Task f, finds statistically significant evidence of an increase in waste constituents in groundwater at a boundary and/or internal monitoring well compared to background levels, the City shall conclude that the discharge caused the increase unless it can demonstrate within 90 days that it was due to an offsite source. The City shall describe the data analysis method used as well as the criteria it used for determining "statistically significant evidence."

RESPONSE: The requested changes have been made.

CITY – COMMENT 34: The Reporting section of the Monitoring and Reporting Program requires an annual report that includes an inventory of the crops in the area receiving water from the Atwater Drain. This requirement is unnecessarily burdensome since the City is required to meet final effluent limitations that allow unrestricted use of the effluent. Therefore, the City requests that this requirement be deleted from the TWDRs.

RESPONSE: The requested change has been made. However, if the City decides to pursue a salinity investigation, the City will need to identify the most salt sensitive crops that have been, are, and could be grown in the area affected by the effluent discharge.

CITY – COMMENT 35: The City requests several changes in the Fact Sheet so that it is consistent with the permit.

RESPONSE: The Fact Sheet has been revised to be consistent with the changes made to the TWDRs described in the above responses. Other small inconsistencies identified by the City between the permit and Fact sheet were corrected.

CALIFORNIA SPORTFISHING PROTECTION ALLIANCE (CSPA) COMMENTS

CSPA – COMMENT 1: The WWTF is operated in an extended aeration mode for nitrification to remove ammonia, yet fails to denitrify to remove nitrate.

RESPONSE: The TWDRs have been revised to include effluent limitations for nitrate and nitrite. A review of the City's self monitoring reports from 2001 through April 2006 indicate that the City would be unable to comply with the proposed final effluent limitations for nitrate. Therefore, this Order contains a proposed interim effluent limitation for nitrate expressed as a daily maximum and includes a compliance schedule to comply with the proposed final nitrate and nitrite effluent limitations.

CSPA – COMMENT 2: Dechlorination with calcium thiosulfate likely raises the hardness of the effluent, thus, artificially masking the toxicity of hardness-dependant metals. The Regional Water Board should reconsider allowing the City to use calcium thiosulfate for dechlorination.

RESPONSE: Regional Water Board staff have considered the hardness of both the effluent and the receiving water and based the reasonable potential analysis and effluent limitations on a worst-case scenario. The effluent limitations have been established to ensure hardness dependent metals will not be discharged at levels that cause an exceedance of water quality objectives. The City's current WDRs and the TWDRs contain limitations that require the City to dechlorinate. Calcium thiosulfate is one of several agents acceptable for dechlorinating wastewater, provided it does not cause a violation of the City's WDRs or water quality objectives. Section 13360(a) of the California Water Code states that no waste discharge requirement shall specify the manner in which compliance may be had with that requirement.

The addition of hardness through the use of calcium thiosulfate can actually lower the toxicity of hardness-dependant metals and this may benefit the aquatic life in the Atwater Drain given that elevated metal concentrations have been observed upstream of the WWTF discharge.

CSPA – COMMENT 3: The permit fails to include receiving water limitations for temperature and turbidity. The Basin Plan does not make a distinction of the source of upstream waters and "occasional storm events" would qualify as natural flow. In addition, failure to include receiving water temperature and turbidity limitations could constitute backsliding in accordance with 40 CFR 122.44 and 122.62.

RESPONSE: The TWDRs contain receiving water limitations for temperature and turbidity. The Basin Plan includes narrative and maximum numeric water quality objectives for temperature and turbidity that limit the increase of each parameter over the natural background conditions in receiving waters. The Atwater Drain is a storm drain constructed in the 1920's specifically to serve the City of Atwater. The drain begins approximately 800 feet upstream of the WWTF discharge. The sources of water in the drain upstream of the WWTF discharge include storm water runoff from the City of Atwater and miscellaneous discharges (e.g., landscape irrigation runoff, wash water, etc.) from residential and industrial areas within the City of Atwater. The City's Self Monitoring Reports show that there is little to no upstream flow (typically around 0.08 cubic feet per second) within the Atwater Drain except during runoff-producing storm events.

The background water originates from human activities and backwater from the discharge except during runoff-producing storm events when it results from man-made storm drainage controls. This unnatural, artificial background water does not have a "natural" temperature or "natural" turbidity on which the water quality objectives are predicated. As there is no natural background water in the Atwater Drain that must be protected from

unreasonable alteration, the numeric Basin Plan objectives for temperature and turbidity do not apply.

The existing beneficial uses were established under the temperature and turbidity conditions created by the existing discharge. Most of the time, the beneficial uses applicable to the Atwater Drain exist because of the WWTF discharge. The proposed Order includes turbidity effluent limitations based on the tertiary treatment requirements in Title 22, California Code of Regulations. As implementation of these new effluent limitations will improve the existing conditions, it is unnecessary to include a numeric receiving water limitation for turbidity, and backsliding is not an issue. A narrative receiving water limitation for turbidity is included in the TWDRs.

While, as mentioned above, the existing beneficial uses were established under the variable temperature conditions created by the existing discharge, the TWDRs do not include a temperature effluent limitation that will improve existing conditions. Thus, to ensure protection of WARM, the TWDRs require the City to conduct a study in consultation with the California Department of Fish and Game to develop appropriate numeric receiving water limits for temperature. In the interim, the TWDRs include a narrative receiving water limitation for temperature.

Section 402(o) of the Clean Water Act contains antibacksliding provisions. In general, the antibacksliding provisions do not allow a permit to be renewed, reissued, or modified to contain *effluent limitations* which are less stringent than the comparable effluent limitations in the previous permit except under certain situations. The antibacksliding provisions in the Clean Water Act only refer to effluent limitations, not receiving water limitations. In fact, NPDES permits issued by the USEPA itself typically do not contain any receiving water limitations. The proposed Order is consistent with the federal antibacksliding rule.

CSPA – COMMENT 4: The permit contains “floating” limits for ammonia, contrary to State Water Board precedential orders.

RESPONSE: The TWDRs have been revised to include fixed effluent limitations for ammonia.

CSPA – COMMENT 5: The flow limitations in the Order fail to comport with federal regulations. Monthly average dry weather discharge flow is not an acceptable design flow parameter.

RESPONSE: The effluent limitation for flow has not been revised. The proposed flow limitation and mass limitations are based on the WWTF design flow consistent with 40 CFR 122.45(b). Average flows are typically used for treatment process design while peak flows are typically used for hydraulic design. Average dry weather flow is the average of the daily flows sustained during dry-weather periods with no inflow and no or limited infiltration. The dry weather period for the Atwater WWTF likely extends over

several months. For regulatory purposes, the TWDRs include a flow limitation that limits the averaging period for the dry weather daily flows to monthly. This is a more restrictive limitation than restricting the discharge to an average dry weather flow.

CSPA – COMMENT 6: The proposed limitation for acute toxicity is inconsistent with the Basin Plan and federal requirements.

RESPONSE: The TWDRs contain several mechanisms to ensure that effluent discharges do not cause acute or chronic toxicity in the receiving water. Receiving water limitations proscribe causing toxicity in the receiving water. The TWDRs include end-of-pipe effluent limits for all toxic pollutants with reasonable potential to cause or contribute to an exceedance of water quality objectives in the receiving water. Where appropriate, these limits are developed based on aquatic life toxicity criteria. However, these limits do not address the synergistic effects that can occur in mixtures of pollutants, the synergistic effects that can occur when effluent is mixed with receiving water, or the toxicity of pollutants for which there are no criteria. Therefore, the TWDRs also require whole effluent chronic toxicity testing, which identifies both acute and chronic effluent toxicity. Provision G.8 requires the City to comply with a numeric monitoring trigger for conducting accelerated chronic WET monitoring and a protocol for requiring the City to initiate an approved TRE if a pattern of toxicity is demonstrated.

The acute limits establish additional thresholds to control acute toxicity in the effluent: survival in one test no less than 70% and a median of no less than 90% survival in three consecutive tests. Some in-test mortality can occur by chance. To account for this, the acute toxicity test acceptability criteria allow ten percent mortality (requires 90% survival) in the control. Thus, the acute limits allow for some test variability, but impose ceilings for exceptional events (i.e., 30% mortality or more), and for repeat events (i.e., median of three events exceeding mortality of 10%).

The TWDRs protect aquatic life beneficial uses by implementing numerous measures to control individual toxic pollutants and whole effluent toxicity. Both the acute limits and receiving water limits are consistent with numerous NPDES permits issued by the Regional Water Board and by other regional water boards throughout the State and are appropriate.

CSPA – COMMENT 7: The TWDRs fail to contain an effluent limitation for chronic toxicity.

RESPONSE: As explained in the Fact Sheet, The SIP contains implementation gaps regarding the appropriate form and implementation of chronic toxicity limits. This has resulted in the petitioning of a NPDES permit in the Los Angeles Region¹ that contained

¹ In the Matter of the Review of Own Motion of Waste Discharge Requirements Order Nos. R4-2002-0121 [NPDES No. CA0054011] and R4-2002-0123 [NPDES NO. CA0055119] and Time Schedule Order Nos. R4-2002-0122 and R4-2002-0124 for Los Coyotes and Long Beach Wastewater Reclamation Plants Issued by the California Regional

numeric chronic toxicity effluent limitations. To address the petition, the State Water Board adopted WQO 2003-012 directing its staff to revise the toxicity control provisions in the SIP. The State Water Board states the following in WQO 2003-012, *"In reviewing this petition and receiving comments from numerous interested persons on the propriety of including numeric effluent limitations for chronic toxicity in NPDES permits for publicly-owned treatment works that discharge to inland waters, we have determined that this issue should be considered in a regulatory setting, in order to allow for full public discussion and deliberation. We intend to modify the SIP to specifically address the issue. We anticipate that review will occur within the next year. We therefore decline to make a determination here regarding the propriety of the final numeric effluent limitations for chronic toxicity contained in these permits."* The process to revise the SIP is currently underway. Proposed changes include clarifying the appropriate form of effluent toxicity limits in NPDES permits and general expansion and standardization of toxicity control implementation related to the NPDES permitting process.

As the toxicity control provisions in the SIP are under revision, it is inappropriate to develop numeric effluent limitations for chronic toxicity. Therefore, the TWDRs require that the City meet best management practices for compliance with the Basin Plan's narrative toxicity objective, as allowed under 40 CFR 122.44(k). Provision 8 in the revised TWDRs requires the City to submit a TRE work plan within 90 days of permit adoption for Executive Officer approval. The TWDRs require the City to comply with a numeric monitoring trigger for conducting accelerated chronic WET monitoring and a protocol for requiring the City to initiate an approved TRE if a pattern of toxicity is demonstrated.

CSPA – COMMENT 8: Grab samples for metals and semi-volatile constituents is inappropriate, 24-hour composite sampling is necessary.

RESPONSE: The Effluent Monitoring section of the Monitoring and Reporting Program has been revised to require 24-hour composite sampling for metals and semi-volatile constituents.

CSPA – COMMENT 9: A significant number of the effluent limitations are not limited for mass.

RESPONSE: Federal regulations at 40 CFR 122.45(f)(1) and (2), states the following regarding effluent limitations for publicly owned treatment works:

*"(1) All pollutants limited in permits shall have limitations, standards or prohibitions expressed in terms of mass **except:***

(i) For pH, temperature, radiation, or other pollutants which cannot appropriately be expressed by mass;

(ii) When applicable standards and limitations are expressed in terms of other units of measurement; or

(iii) If in establishing permit limitations on a case-by-case basis under § 125.3, limitations expressed in terms of mass are infeasible because the mass of the pollutant discharged cannot be related to a measure of operation (for example, discharges of TSS from certain mining operations), and permit conditions ensure that dilution will not be used as a substitute for treatment.

(2) Pollutants limited in terms of mass additionally may be limited in terms of other units of measurement, and the permit shall require the permittee to comply with both limitations.”
(emphasis added)

The proposed Order contains effluent limitations expressed in terms of both mass and concentration for select constituents. Pursuant to the exceptions to mass limitations provided in 40 CFR 122.45(f)(1), some parameters have no mass, such as pH and temperature, and thus no mass limitation.

Mass limitations for certain constituents are not necessary to ensure protection of the beneficial uses of the receiving water. The TWDRs have been revised to include mass limitations for dioxin, which is a bioaccumulative constituent. For some constituents there is no water quality benefit for limiting the mass and for these, concentration-based limitations are appropriate in the proposed Order.

CSPA – COMMENT 10: Finding No. 5, table footnote No. 7, page 2 cites the “highest monthly average 7-day median.” This phrase appears to have no mathematical meaning.

RESPONSE: The footnote reference to the “highest monthly average 7-day median” has been revised to reflect the data reported in the Report of Waste Discharge.

CSPA – COMMENT 11: Finding Nos. 33, 34, 35, and 43 (e and f) go to great lengths to undermine the MUN designation of the Atwater Drain. All this effort is put forth to eliminate effluent limitations for bromodichloromethane and chlorodibromomethane. The permit does not discuss UV disinfection, which would likely be a means of compliance and could be considered best practicable treatment or control (BPTC). The Regional Water Board is required to assure wastewater treatment systems provide BPTC and should, at a minimum, take a neutral scientific stance with regard to any possible dedesignation of beneficial uses.

RESPONSE: Finding Nos. 33, 34, 35, and 43 (e and f) are factual findings regarding the beneficial uses of the Atwater Drain. The WWTF discharge shows a reasonable potential to exceed the CTR human health criteria (water and organisms only) for bromodichloromethane and chlorodibromomethane. These water quality objectives **only** apply for water bodies designated MUN. As stated in the permit, there is no recent evidence or documentation of the MUN beneficial use in the Atwater Drain. The reason for applying MUN to the Atwater Drain is because the Basin Plan designates all unlisted waters as MUN as recommended by State Water Board Resolution No. 88-63 (known as

the “Sources of Drinking Water Policy”). The Atwater Drain could qualify for an exception to Resolution 88-63 as a system designed to collect storm water runoff; however, in accordance with State Water Board Order No. WQO 2002-0015 (Vacaville Order), dedesignation of MUN for the Atwater Drain requires a Basin Plan amendment. While it appears unlikely that MUN exists in the Atwater Drain based on the information gathered to date, it is not a foregone conclusion. Before MUN could be dedesignated, the City would have to demonstrate through a Use Attainability Analysis (UAA) that MUN does not exist and is unlikely to exist in the future. If the City meets this burden of proof and the Regional Water Board dedesignates MUN, the water quality objectives for bromodichloromethane and chlorodibromomethane (water and organisms only) will no longer apply.

The effluent limitations and provisions in the TWDRs ensure that all applicable water quality objectives will be met regardless of whether MUN is dedesignated.

CSPA – COMMENT 12: The City failed to achieve minimum detection levels for 41 constituents when it conducted its CTR sampling and is rewarded by a compliance schedule. While the permit requires additional sampling for these constituents in accordance with the SIP, the insufficient sampling occurred in 2001 without any Regional Water Board enforcement or follow-up action.

RESPONSE: As noted the SIP requires additional monitoring for pollutants where the reported detection limit of the pollutant was greater than or equal to the criteria. Consistent with the SIP, the TWDRs require additional monitoring for CTR constituents.

CSPA – COMMENT 13: The reasonable potential analyses do not comport with federal requirements by failing to account for effluent variability.

RESPONSE: The SIP is the governing policy in California for implementing the CTR and has been approved by the USEPA, and the regional water boards are obligated to comply with the SIP as State Water Board policy. The use of the SIP procedure to determine the reasonable potential analysis is appropriate for CTR constituents and is not inconsistent with the requirements in 40 CFR 122.44(d)(1)(ii). The SIP requires the permit writer to examine the available effluent data and then compare the maximum effluent concentration in the data set to the appropriate water quality criteria. If the maximum effluent concentration is greater than the criteria, the SIP requires an effluent limit in the permit.

CSPA – COMMENT 14: The groundwater limitations state that the wastewater discharge shall not cause “preventable” degradation. “Preventable” is not defined and should be removed.

RESPONSE: The groundwater limitations have been revised to read as follows:

Release of waste constituents from any storage, treatment, or disposal component associated with the WWTF shall not cause groundwater within influence of the WWTF to be degraded or, in combination with other sources of the waste constituents, to contain waste constituents in concentrations equal to or greater than that listed below:

1. Total coliform organisms of 2.2 MPN/100 mL.
2. Chemical Constituents in concentrations that adversely affect beneficial uses, such as nitrate-nitrogen of 10 mg/L.
3. Toxic constituents in concentrations that produce detrimental physiological responses in human, plant, or animal life.

CSPA – COMMENT 15: Although the permit states that the City must enter into an agreement with the Gallo Ranch to divert up to 6 mgd of wastewater discharged by the City, the permit does not cite a water right being issued by the State Water Board.

RESPONSE: The permit does not require the City to enter into an agreement with Gallo Ranch for the diversion of wastewater from the Atwater Drain. As stated in Finding 29, in 1978, the City and Gallo Ranch entered into an agreement wherein Gallo Ranch was granted the right to divert up to six mgd from the Atwater Drain (i.e., the WWTF's maximum permitted discharge flow).

CSPA – COMMENT 16: Provision 7 should be modified to also require signs warning against public contact.

RESPONSE: The requested modification was made.

CSPA – COMMENT 17: Language should be added to the permit that wetlands intentionally attract wildlife and contact recreation within the Merced National Wildlife Refuge is an expected use. This information and a copy of the TWDRs should be passed along to the Merced National Wildlife Refuge and the U.S. Fish and Wildlife Service.

RESPONSE: The requested additions were not made, as they are not applicable to this situation. Finding 33 indicates that the Atwater Drain supports wetland ecosystems and wildlife in the Merced National Wildlife Refuge. The Arena Plains Unit of the Merced National Wildlife Refuge is not open to the public.

All public material and correspondence concerning the TWDRs has been and will continue to be sent to the U.S. Fish and Wildlife Service.

CSPA – COMMENT 18: The permit does not comply with antidegradation policies as it fails to require BPTC. Specific examples of where BPTC is not provided include: failure to denitrify the wastewater, unlined sludge disposal ponds, no treatability analysis for metals, and failure to include UV for trihalomethanes.

RESPONSE: The permit incorporates effluent limitations and requirements that are at least as stringent (and in many cases more stringent) than in the previous permit. The permit has been revised to include effluent limitations for nitrite and nitrate, thus, requiring denitrification. The permit requires the City to install groundwater monitoring wells to investigate the impact of the sludge drying beds. If it is determined that the unlined sludge drying beds have caused pollution or degradation, the City is required to submit a technical report containing a work plan and implementation schedule describing proposed modifications to the WWTF's sludge handling operations to ensure compliance with the permit's Sludge Specifications and Groundwater Limitations. For metals, the City is required to either comply with the final effluent limitations by 7 June 2007 or provide, among other things, a proposal, including an implementation schedule, for additional or future source control measures, pollutant minimization actions, or waste treatment (i.e., facility upgrades or operational modifications) necessary to comply with the final effluent limitations. For UV disinfection, see Response to Comment 11.

CSPA – COMMENT 19: The compliance schedules are not compatible with achieving compliance within the required time frame. The compliance schedule for tertiary treatment lags behind other compliance schedules by years for metals, dioxin, and trihalomethanes. One assumes the City would principally comply with the final effluent limitations through upgraded treatment process, including tertiary treatment. The timing of the current compliance schedules will result in non-compliance and should be revised to be consistent with the CTR compliance date of 18 May 2010.

RESPONSE: The requested compliance schedule revision has not been made. It is the City's decision on how to comply with the final effluent limitations in accordance with the proposed time schedules. If the City intends tertiary treatment to be the primary means for complying with the copper, lead, zinc, and dioxin limitations, then the tertiary treatment would need to be in place by 18 May 2010.

CSPA – COMMENT 20: The TWDRs do not comply with the SIP for inclusion of compliance time schedules in the permit. It is the clear intent of the SIP that the required request, documentation, and justification for a compliance schedule be submitted prior to issuance of a permit. As this information has not been provided, a compliance schedule for CTR constituents cannot be included in the TWDRs and must be moved to a Cease and Desist Order. Provisions G.9 and G.10 must be deleted.

RESPONSE: Provisions G.9 and G.10 do not authorize a compliance schedule unless the City submits the documentation and justification for a compliance schedule as required by SIP Section 2.1. If the City chooses not to submit the documentation and justification or the City fails to meet the requirements of SIP Section 2.1, the final effluent limitations become effective at that point, not 18 May 2010.

CSPA – COMMENT 21: The Regional Water Board has no authority to issue compliance schedules for CTR constituents and such schedules and interim effluent limits are illegal.

RESPONSE: The SIP is the governing policy in California for implementing the CTR and it allows compliance schedules. USEPA approved the section of the SIP concerning compliance schedules. Although the CTR provisions for compliance schedules expired, that does preclude the State Water Board from establishing its own version of compliance schedules since the SIP is intended to implement the CTR. The SIP allows compliance schedules that are short as practicable but in no case (1) more than 5 years or (2) beyond 10 years from the effective date of the SIP (18 May 2000) to establish and comply with CTR-based effluent limitations. The TWDRs include a time schedule to comply with CTR-based effluent limitations by 18 May 2010 (i.e., 10 years from SIP effective date). In addition, the TWDRs require the City to (1) provide a justification for the compliance schedule in accordance with Section 2.1 of the SIP, (2) comply with interim effluent limitations (as required by the SIP), and (3) submit semi-annual progress reports.

Changes were made to the Fact Sheet to make it consistent with the changes made to the TWDRs described in the above responses. A strikeout/underline version of the modified TWDRs is available on our web site.

Due to substantive changes to the TWDRs, we are re-circulating the TWDRs (enclosed) for comment. Any comments or recommendations you may have concerning the revised TWDRs must be submitted to this office in writing no later than **17 November 2006** for staff to give them full consideration prior to the meeting of the Regional Water Board. Comments or information received after the final date will not be considered.

To conserve resources, a paper copy of the revised TWDRs is being sent to the City only. The revised TWDRs are available electronically on our web site: <http://www.waterboards.ca.gov/centralvalley/tentative/index.html>. Paper copies can be obtained by contacting Matt Scroggins by telephone at (559) 445-6042 or by email at msscroggins@waterboards.ca.gov. Any questions concerning the TWDRs should also be directed to Matt Scroggins.

Original signed by

W. DALE HARVEY
Senior WRC Engineer
RCE No. 55628

Enclosures – Tentative Waste Discharge Requirements (Discharger only)
Standard Provisions (Discharger only)

MSS:mss

cc: See next page

Mr. Gregory Wellman, City Manager
City of Atwater
City of Atwater WWTF
Merced County

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12 October 2006

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