

The following are Regional Water Quality Control Board (Regional Water Board) staff responses to comments from interested parties submitted in response to the Tentative Waste Discharge Requirements Renewal and Cease and Desist Order (CDO) for the Placer County Sewer Maintenance District No. 3 wastewater treatment plant (WWTP). The tentative NPDES Permit renewal (NPDES Permit No. CA0079367) and CDO were originally issued for public comments in November 2006. Subsequent revised tentative documents addressing public concerns were re-issued for public comment on February 28, 2007. Written comments from the following interested parties were received by the Regional Water Board office within the two established 30-day public comment periods:

1. Placer County Department of Facility Services
2. California Sportfishing Protection Alliance
3. Central Valley Clean Water Association

Written comments from the above interested parties are summarized below, followed by Regional Water Board staff responses.

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### **PLACER COUNTY DEPARTMENT OF FACILITY SERVICES (Discharger) Comments**

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**Discharger Comment No. 1. Turbidity Compliance Schedule.** The first tentative permit required tertiary-level turbidity limitations all year-round. The Discharger stated that the previous permit did not require tertiary treatment when the receiving water to effluent discharge flow ratio was above 20:1. The Discharger requested modification to the proposed turbidity limitation in the tentative permit to continue the existing seasonal requirement. The tentative permit contains new, more restrictive turbidity limitations in which the County will not be able to immediately comply, and therefore the permit needs to include a compliance schedule.

**RESPONSE:** The existing Waste Discharge Requirements (WDR) Order No. R5-00-118 contains turbidity effluent limitations of 5 NTUs as a daily maximum limitation and 2 NTU as an average monthly effluent limitation. The existing permit requires the Discharger to provide this tertiary level of treatment when the receiving water-to-effluent flow ratio is less than 20-to-1. When flows are 20-to-1 or greater, turbidity limitations are not in effect.

Similarly, the proposed NPDES permit renewal includes turbidity limitations for when the receiving water-to-effluent flow ratio is less than 20-to-1. The proposed turbidity limitations are in accordance with Department of Health Service Title 22 Regulations to protect human contact beneficial uses. The proposed turbidity effluent limitations include a 2 NTU daily average limitation and a 10 NTU instantaneous maximum limitation.

The first tentative NPDES permit included a requirement for submittal of an Infeasibility Study providing technical justification for compliance schedules necessary for the Discharger to achieve compliance with new and/or more stringent effluent limitations. The Discharger submitted a request for a 4-year time schedule for compliance with the new turbidity limitations; Staff, however, did not accept the submitted time schedule request, due to insufficient justification demonstrating why the existing filtration process at the

WWTP cannot achieve the performance necessary to comply with the newly proposed turbidity requirements. On 24 April 2007, the Discharger submitted a revised time schedule request that included an analysis of actual turbidity data estimating non-compliance with the proposed limitations 7.7 percent of the time, based on 2004 through 2006 data. Staff accepted this request and has incorporated a 3-year compliance schedule in the proposed NPDES permit as a late revision.

**Discharger Comment No. 2. Ammonia Limitation Calculation.** The calculation of seasonal effluent limitations for ammonia is incorrect.

**RESPONSE:** After reviewing the calculations for the proposed ammonia seasonal limitations, staff discovered an error in the use of the proper numeric multiplier that is a key component of the calculations performed according to the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (also referred to as the State Implementation Policy or SIP). The ammonia limitations have been corrected, resulting in the May-thru-October seasonal limitations not only being less stringent, but also being equal to the November-thru-April seasonal limitations. The correction of the May-thru-October seasonal limitation brought forth the conclusion that there is not enough of a temperature difference in the effluent between the two seasons to have different seasonal limitations.

This adjustment in the proposed limitations is strictly due to correction of a technical error and has been incorporated into the tentative permit as a late revision for the May 2007 Regional Water Board Meeting. The corrected ammonia limitations are less stringent than the limitations in the proposed permit issued for public review.

**Discharger Comment No. 3. Mercury Mass Limitation.** The actual maximum mercury effluent concentration used to calculate the proposed mercury mass limitation was not the highest concentration. The highest mercury effluent concentration occurred on 1 June 2005, whereas the proposed limitation in the tentative permit used a lower concentration measured on 29 March 2002.

**RESPONSE:** Regional Water Board staff has examined the June 2005 mercury effluent monitoring report and confirms that the incorrect value was used. The proposed mercury mass limitation in the tentative permit has been corrected. The correction results in a higher mass limitation. This change is strictly due to the correction of a technical error and has been incorporated into the tentative permit as a late revision for the May 2007 Regional Water Board Meeting.

**Discharger Comment No. 4. Compliance Schedule for New Limitations.** A time schedule beyond the proposed 18 May 2010 date is necessary for compliance with new copper, aluminum, organochlorine pesticides, dibromochloromethane, and dichlorobromomethane effluent limitations. The Discharger requests a five-year compliance date for aluminum, which is not a CTR constituent.

**RESPONSE:** The compliance schedule in the proposed permit grants up to 18 May 2010 for the Discharger to comply with new final effluent limitations for CTR constituents and aluminum. The May 2010 compliance date corresponds with the compliance date required in the SIP for CTR constituents. Actions to comply with the aluminum limitation are similar to actions necessary to comply with CTR constituent limitations, such as the need for (1) source control and water quality studies, and (2) a decision regarding regionalization. Therefore, the compliance schedule for aluminum is the same as proposed for CTR constituents.

Regional Water Board staff acknowledges that there may be the need for additional time beyond the May 2010 compliance date for the Discharger to comply with final effluent limitations for CTR constituents and aluminum. However, there is not enough information to determine the shortest, most practical time schedule necessary. Therefore, the proposed permit acknowledges that the Regional Water Board may consider issuance of a Time Schedule Order to grant additional time for compliance if it is deemed necessary as the May 2010 compliance date approaches.

Monitoring data indicates that organochlorine pesticides were detected in the plant effluent. For the detected organochlorine pesticides that indicated “reasonable potential” for exceedance of CTR criteria, a 18 May 2010 compliance date is proposed for compliance with effluent limitations based on the corresponding CTR criteria. A five-year time schedule is proposed for compliance with the final “non-detect” effluent limitations for all detected organochlorine pesticides. The “non-detect” effluent limitations are based on Basin Plan objectives.

The tentative permits circulated for public review did not include this May 2010 compliance date for CTR-based organochlorine pesticide effluent limitations due to an oversight on behalf of the staff. These effluent limits are included in the tentative permit as a late revision for the May 2007 Board Meeting.

**Discharger Comment No. 5. Compliance with Existing Limitations.** The Discharger states that immediate compliance with nitrate, total coliform bacteria, and chlorine residual effluent limitations is not possible. The Discharger requests interim limitations for nitrate, and a compliance schedule with interim limitations for total coliform bacteria and chlorine residual, to be included in the proposed permit.

**RESPONSE:** Existing WDR Order No. R5-00-118 contains a nitrates effluent limitation of 45 mg/l as NO<sub>3</sub> (same as 10 mg/l as N) and a three-and-one-half year compliance schedule (without interim limitations). The Discharger was unable to comply with the existing nitrates limitation prior to the established compliance. However, the proposed permit does not include a compliance schedule for nitrates. The four-year compliance schedule is included in the proposed Cease and Desist Order (CDO) addresses the Discharger’s need for additional time to compliance with the existing nitrates limitation. The CDO also includes a new corresponding mass limitation and an interim limitation of 32 mg/l (as N).

The total coliform bacteria limitations in the existing WDR No. R5-00-118 and the interim coliform bacteria limitations in the proposed permit are the same limitations:

- 2.2 MPN/100 ml as a seven-day median, and
- 23 MPN/100 ml as a daily maximum.

The proposed final total coliform bacteria effluent limitations in the proposed permit are:

- 2.2 MPN/100 ml as a seven-day median,
- 23 MPN/100 ml as a daily maximum, and
- 240 MPN/100 ml at any time.

The Discharge is granted a new two-year compliance schedule in the proposed permit to comply with the final total coliform bacteria effluent limitations, which adds stringency with the addition of the '240 MPN/100ml at any time' limitation.

The chlorine residual effluent limitations are established to protect aquatic life in the receiving water from toxicity due to chlorine. The chlorine residual effluent limitations in the proposed permit are the same as the limitations in the existing WDR Order No. R5-00-118. Granting a compliance schedule would require the inclusion of less-stringent interim limitations, which would result in unjustified backsliding. Therefore, a compliance schedule for chlorine residual has not been proposed.

**Discharger Comment No. 6. Dilution Credit.** The receiving water for this discharge always has some flow. The Discharger requested dilution credit to be provided for limitations on human health constituents. Additionally, the Discharger states that since no assimilative capacity or dilution is granted, the receiving water hardness cannot be used to determine criteria for hardness dependent parameters and effluent hardness must be used.

**RESPONSE:** An approvable dilution study or the appropriate flow data has not been provided by the Discharger to support the consideration of dilution credits for this discharge. The existing Waste Discharge Requirements (WDR) Order No. R5-00-118 grants dilution through the requirement of tertiary treatment only when the receiving water to effluent flow ratio is less than 20:1. When the flow ratio is 20:1 or greater, the discharger is not required to treat the effluent to tertiary standards. The same criteria for the requirement of tertiary treatment are proposed in the NPDES permit renewal.

The receiving water is a perennial stream. Effluent limitations for hardness-dependent metals have been established using the receiving water hardness, in accordance with the SIP to determine hardness-dependent metals criteria. For this permit, the upstream receiving water hardness was used to be most protective of the aquatic community at the point of discharge and downstream of the discharge.

**Discharger Comment No. 7. Final Mass Effluent Limitations.** Mass limitations are not required when the applicable standards or limitations are expressed in terms of other units of

measurement and the imposition of mass limitations for those parameters is more stringent than Federal law and requires a Section 13241 analysis.

**RESPONSE:** Federal regulations at 40 CFR Section 122.45(f) require the use of mass limitations in all NPDES permits. An exception to that requirement is in the case where applicable standards and limitations are expressed in terms of other units of measure (122.45 (f)(ii)). However, this does not preclude the use of both concentration and mass limitations in an NPDES permit. The mass limitations proposed in this permit are based on the design flow of the facility as required in 40 CFR §122.45(b)(1). As a result, the mass limitations are not more stringent than Federal law.

**Discharger Comment No. 8. Mass Limitations.** Wet Weather Mass Limits should be based on Wet Weather Flow. The proposed interim and final effluent mass limitations are based on the regulated flow of 0.3 million gallons per day (mgd) average dry weather flow. The Discharger requests wet weather flows be used in the calculation of mass limitations during wet weather events where the effluent flow exceeds the average dry weather flow.

**RESPONSE:** The Report of Waste Discharge (permit application) submitted by the Discharger indicates that the design flow of the treatment system is 0.3 mgd. In accordance with 40 CFR Section 122.45(b)(1), NPDES permit effluent limitations, standards and/or prohibitions must be calculated based on design flow. Therefore, the 0.3 mgd design flow specified by the Discharger was used for calculating proposed effluent mass limitations.

To address the Discharger's concerns regarding compliance with mass limitations during wet weather flow, the proposed permit specifies that Discharger compliance with mass limitations will be determined during average dry weather time periods only when groundwater is at or near normal and runoff is not occurring. Corresponding language throughout the proposed permit has been change to reflect this compliance determination provision.

**Discharger Comment No. 9. Average Dry Weather Flow.** The Discharger requests clarification throughout the proposed permit regarding the permitted flow, such as recommending that the "Facility Permitted Flow" read "Facility Permitted ADWF".

**RESPONSE:** Staff revised the tentative permit to reflect that the regulated flow is the average dry weather flow (ADWF) of 0.3 mgd throughout the proposed permit. To address the Discharger's concerns regarding the definition of the regulated flow, the following language has been added to the Compliance Determination section of the proposed permit:

*Average Daily Discharge Flow Effluent Limitations (Sections IV.A.2.b., IV.A.3.b., and IV.A.4.b.). The Average Daily Discharge Flow represents the daily average flow when groundwater is at or near normal and runoff is not occurring. Compliance with the Average Daily Discharge Flow effluent limitations will be determined annually based on the average daily flow over three consecutive dry weather months (e.g. July, August, and September).*

**Discharger Comment No. 10. Historical Flow.** The Discharger requests footnoting the historic daily flow recorded of 0.45 mgd footnote to Maximum Instantaneous flow recorded 31 December 2005.

**RESPONSE:** The change has been made.

**Discharger Comment No. 11. Design Flow.** The Discharger requests “Design Flow” should read “Design Dry Weather Flow”.

**RESPONSE:** This section refers to the information submitted by the Discharger regarding the design flow of the treatment plant. The language has been clarified per the Discharger’s request.

**Discharger Comment No. 12. Submittal of Regionalization Submittal.** The Discharger requests changing the compliance date for the submittal of a final regionalization decision from 30 January 2008 to 31 January 2008.

**RESPONSE:** The compliance date for the Discharger’s submittal of a final regionalization decision regarding the SMD3 facility has been corrected in the proposed NPDES permit and CDO to read 31 January 2008.

**Discharger Comment No. 13. Interim Nitrates Effluent Limitation.** The interim maximum daily effluent limitation for Nitrates is incorrect. It should be 33.8 mg/L as N (measured as Nitrogen) instead of 32 mg/L as N.

**RESPONSE:** Regional Water Board staff used three years of data for development of proposed interim and final limitations. The use of three years of data results in a proposed interim nitrates limitation of 32 mg/l as N. The 33.8 mg/l interim limitation requested by the Discharger is based on more than three years of data. To maintain consistency with the use of three years of data for NPDES permit development, the nitrates interim limitation remains unchanged.

**Discharger Comment No. 14. Minimum Detection/Reporting Level for Organochlorine Pesticide Monitoring** (Page 11, Table footnote #2). The Discharger requests the following clarification to the “non-detect” effluent limitations for organochlorine pesticides: “The non-detectable (ND) limitation applies to each individual pesticide. No individual pesticide may be present in the discharge at detectable concentrations. The Discharger shall use USEPA standard analytical techniques with a maximum acceptable detection level of 0.05 µg/L.

**RESPONSE:** Appendix 4 of the SIP requires a minimum Reporting Level of 0.05 ug/l. This clarification has been made where applicable throughout the proposed permit.

**Discharger Comment No. 15. Floating Ammonia Limit.** Regional Water Board staff was considering the potential implementation of floating ammonia limits, somewhat similar to the floating criteria in the existing WDR Order No. R5-00-118. A tentative “alternative floating ammonia limit” for the proposed permit was issued for public comments. The Discharger has

requested the alternative floating ammonia limitation proposed in the tentative review process be removed and the seasonal fixed ammonia limitations be included.

**RESPONSE:** Seasonal fixed ammonia limits are proposed for this permit. "Floating ammonia limits" are not being proposed in this permit renewal.

**Discharger Comment No. 16. Tertiary Treatment Processes.** The proposed permit should not prescribe the specific type of treatment necessary to achieve Title 22 tertiary treated wastewater and requests the special provision that requires the wastewater to be oxidized, coagulated, filtered and adequately disinfected, should be deleted.

**RESPONSE:** California Code of Regulations, Title 22 requires tertiary wastewater to be oxidized, coagulated, filtered and adequately disinfected pursuant to Department of Health Services (DHS) reclamation criteria, or equivalent. Staff does not recommend deleting the section. The language cited refers to the types of model treatment that can be utilized to achieve compliance. The requirement allows the use of equivalent treatment that achieves the DHS regulatory requirements.

**Discharger Comment No. 17.** (Page 30, Paragraph 6.a.) The Discharger recommends revising permit language to clarify that the effluent limitations are based on levels needed to protect "beneficial uses in" receiving water.

**RESPONSE:** Staff appreciates this suggestion and may consider using this suggestion in future NPDES permits.

**Discharger Comment No. 18. Compliance Determination of Mass Effluent Limitations.** The Discharger requests the word "average" in the phrase "average dry weather period" be deleted from the compliance language for mass effluent limitations.

**RESPONSE:** The word "average" in this phrase does not change the compliance determination provision, the wording will remain unchanged and is consistent with other recently adopted NPDES permits.

**Discharger Comment No. 19. Treatment Flow Schematic.** The process flow schematic in the tentative permit indicates that chlorination is prior to filtration, however filtration occurs before chlorination.

**RESPONSE:** The Treatment Flow Schematic has been corrected.

**Discharger Comment No. 20. (Page F-8 Municipal, Domestic and Agricultural Water Supply)** The commenter states there is no justification for the application of agricultural beneficial uses to the receiving water and therefore these beneficial uses should not apply.

**RESPONSE:** Staff has properly applied the tributary rule as discussed in detail in the proposed permit (see Findings II.H.). Therefore, the beneficial use of agricultural supply is applicable to this receiving water.

**Discharger Comment No. 21. Stringency of Requirements for Individual Pollutants.**

Section 13241 of the Water Code was not considered adequately in the establishment of limitations that are more stringent than federal requirements. The limitations for coliform bacteria, and turbidity, for example, are more stringent than those required to implement the technology-based requirements of the Clean Water Act (CWA).

**RESPONSE:** The Regional Water Board has already determined that tertiary treatment, including coliform bacteria and turbidity limitations, is appropriate in the adoption of the existing permit. Effluent limitations in the proposed permit renewal were established in accordance with the Clean Water Act, California Water Code, Basin Plan requirements, and information provided by the Discharger and the existing permit. Water quality-based effluent limitations are necessary to protect the beneficial uses of the receiving water.

**Discharger Comment No. 22. Discharge Prohibitions B.** The tentative permit states, “The by-pass or overflow of wastes to surface waters is prohibited...” The Discharger recommends the prohibition be restated to read: “The by-pass or overflow of wastes to waters of the United States is prohibited...”

**RESPONSE:** The proposed order is consistent with other recently adopted NPDES permits and remains unchanged. In addition, not all surface waters are considered waters of the United States but are, however, waters of the State. (See CWC section 13050 et seq.) The Discharger must comply with the Clean Water Act and the Porter-Cologne Water Quality Control Act (CWC, section 13000 et seq.), including state anti-degradation requirements and needs to prevent pollution or nuisance. In addition, the Regional Board has the authority to require the Discharger to treat its waste in accordance with its Report of Waste Discharge, which includes the authority to require the use of the proposed treatment facilities prior to any discharges of waste, whether to surface waters or the more narrowly defined “Water of the United States.”

**Discharger Comment No. 23. (Page 10, Final Effluent Limitations – Discharge Point**

**D-001)** The Discharger states the effluent limitation in the table for total coliform organisms is not consistent with that stated elsewhere in the permit. The Discharger also requests floating limits for ammonia and copper based on effluent or downstream receiving water hardness. Lastly, the Discharger also requests Board staff to define the appropriate reporting limit for the non-detect organochlorine pesticide effluent limitation.

**RESPONSE:** The total coliform bacteria organism effluent limitations in the final effluent limitation table have been corrected. The corresponding tables in the Fact Sheet have been revised to be consistent with the table on page 10.

The proposed permit has been developed in accordance with the SIP, with the use of the “most reasonable” low receiving water hardness value to establish metals effluent limitations that are protective of the beneficial uses of the receiving stream.

Clarifying language has been added to the proposed permit requiring a minimum Reporting Level of 0.05 ug/l for organochlorine pesticide monitoring. This requirement is in accordance with Appendix 4 of the SIP.

**Discharger Comment No. 24. Compliance Schedule for Final Electrical Conductivity (EC) Effluent Limitations.** The Discharger requests a compliance schedule for compliance with the proposed final EC effluent limitation of 700 uhmos/cm.

**RESPONSE:** The proposed performance-based EC effluent limitation has been established at 700  $\mu$ mhos/cm. Effluent monitoring data from the Discharger indicate a long term average discharge value of 553  $\mu$ mhos/cm with compliance at a 99<sup>th</sup> percentile basis. The Discharger is able to comply with the limitation immediately and therefore no compliance schedule is justified or proposed.

**Discharger Comment No. 25. Page 15, B. Groundwater Limitations.** The commenter requests the following revision to this section, “...discharge shall not cause the underlying groundwater to be degraded ...(insert the following).... exceed water quality objectives, unreasonably affect beneficial uses, or cause a condition of pollution or nuisance.”

**RESPONSE:** The intent of the above provision is to prohibit release of waste constituents from any storage, treatment, or disposal component associated with the WWTP from causing the underlying groundwater to (1) contain waste constituents in concentrations greater than background water quality, (2) violate water quality objectives, (3) impact beneficial uses, or (4) cause a condition of pollution or nuisance. The language has been modified accordingly.

**Discharger Comment No. 26. Page 15, VI.A.2.c, Regional Board Standard provisions.** The Discharger states that the Discharger’s requirement to comply with newly promulgated effluent standards and prohibitions upon promulgation, without regard to whether the permit is reopened to incorporate those new requirements, should be eliminated. The Discharger states that such standards are not self-implementing.

**RESPONSE:** The Discharger is obligated to comply with newly promulgated effluent standards and prohibitions upon promulgation, even if the permit has not yet been modified to incorporate the requirement. (40 CFR 122.41.) This language is consistent with other recently adopted NPDES permits and is a condition for all NPDES permits.

**Discharger Comment No. 27. Monitoring and Reporting Programs.** The Discharger requests the sentence stating “peaks identified by analytical methods shall be reported” be removed or modified to exclude this requirement in the reporting of organochlorine pesticide results.

**RESPONSE:** The requirement is consistent with the monitoring requirements for CTR constituents as outlined in Section 2.3 and 2.4 of the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California*. The provisions for reporting levels and protocols are detailed in the SIP and the language in the

tentative permit is consistent with those requirements. Therefore, the Discharger's suggested deletion or modification to the language is not being implemented.

**Discharger Comment No. 28. Reopener Provisions.** The tentative permit language states that the order may be reopened if a priority pollutant is detected. The Discharger suggests the language be modified to state: "The Regional Water Board may modify, or revoke and reissue, this Order and Permit if present or future investigations demonstrate that the Discharger governed by this Permit is causing or significantly contributing to, an applicable water quality objective."

**RESPONSE:** When reasonable potential exists for a pollutant to cause or contribute to an exceedance of a water quality standard, including numeric and narrative objectives within a standard, effluent limitations for that parameter are required and the Order may need to be reopened. Additionally, it may be necessary to reopen the Order to require additional monitoring requirements if a pollutant is detected and additional data is necessary to determine if reasonable potential exists for that parameter to cause or contribute to an exceedance of a water quality standard, including numeric and narrative objectives within a standard. Therefore, the reopener language remains unchanged.

**Discharger Comment No. 29. Special Provisions for Municipal Facilities, Sludge/Biosolids Discharge.** The Discharger states the facility is unable to dewater biosolids on-site between October 15<sup>th</sup> and April 15<sup>th</sup> at the request of Regional Water Board staff and requests the section be revised to include facility operations.

**RESPONSE:** A revision to the section to include site-specific conditions has been made. The site-specific requirements for this facility have been incorporated into the proposed permit.

**Discharger Comment No. 30. (Page E-3, G.) Use of Non-Certified Laboratories.** The permit should allow the use of laboratories for analyses not certified by the California DHS.

**RESPONSE:** The SIP requires laboratories used for analysis be certified by the California DHS, therefore, this requirement remains unchanged.

**Discharger Comment No. 31. Monitoring Location M-001.** The Discharger requests defining Dry Weather Flow and 5 day per week minimum sampling frequency for temperature, total coliform organisms, EC, and ammonia. A suggestion was made to add "(as N)" to ammonia and changing the units to mg N/L as well as defining dry weather flow parameter. In addition, the commenter suggested adding "-hr" to settleable solids units.

**RESPONSE:** Revisions to clarify constituent units have been made. Daily monitoring frequency was determined to be necessary based on the operation and compliance history of the facility. However, staff has taken in account that the Discharger only maintains plant staff five days a week. Therefore, the daily monitoring frequency in the proposed permit has

been changed to 5 times a week to work in conjunction with plant staffing while ensuring proper operation of the facility.

**Discharger Comment No. 32. Page E-9, VIII. Receiving Water Monitoring Requirements – Surface Water, A. Monitoring Location R-001U and R-002D, table.** Footnote definition is missing from table, pH units should be standard units, temperature units should be degrees C, add text to EC “@25 deg C.”

**RESPONSE:** The footnote is present, corrections were made to the pH units, temperature units, and text was added for EC to include @ 25° C.

**Discharger Comment No. 33. Biosolids Monitoring – Monitoring Location B-001, 3.** The Discharger requests clarification as to whom the biosolids characterization should be submitted to.

**RESPONSE:** The proposed permit has been revised to clarify that the biosolids characterization must be submitted to the Regional Water Board.

**Discharger Comment No. 34. Sample Results.** The Discharger requests revision to how the reporting limits for organochlorine pesticides are expressed. Suggested reporting terminology as “detected, but not quantified.”

**RESPONSE:** This language is consistent with other recently adopted NPDES permits and staff does not recommend revising the language.

**Discharger Comment No. 35. Page F-15, 2.b. Hardness.** The commenter requests that either the effluent or downstream receiving water hardness be used for hardness dependent parameters and that floating limits be used.

**RESPONSE:** See Response to Comment No. 8 above.

**Discharger Comment No. 36. Temperature and Hardness.** The Discharger states that the use of effluent temperature for ammonia and upstream receiving water hardness for deriving metals limits is inconsistent and indefensible.

**RESPONSE:** The effluent limitations are to be protective of the beneficial uses of the receiving water. For hardness dependent metals, toxicity increases as the hardness values of the water decrease. For the proposed permit, the lowest measured hardness value was in the upstream receiving water. For ammonia, as temperature increases, toxicity increases. The highest measured temperature value was from the effluent. In order to be protective of the beneficial uses, these values were used in determining the criteria and in the subsequent development of effluent limitations.

**Discharger Comment No. 37. Page F-26, j and k (Iron and Manganese).** The Discharger states that no reasonable potential exists for iron or manganese and requests limitations for those parameters be removed.

**RESPONSE:** The receiving water exceeds the criteria for both iron and manganese. As required by the 2005 update to the SIP, effluent limitations for these parameters have been included in the permit. Since the receiving water exceeds the criteria for these parameters, and the constituents have been detected in the effluent, limitations are required to ensure additional impairment to the receiving water does not occur. This is consistent with permit development policy and is necessary to protect the beneficial uses of the receiving water.

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

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**CSPA COMMENT No. 1: Anti-Degradation.** The modification to seasonal Effluent Limitations for ammonia allows for a greater mass of ammonia to be discharged and there is no corresponding Antibacksliding or Antidegradation analysis in accordance with Federal Regulations or the Antidegradation Policy.

**RESPONSE:** The permit is in accordance with anti-degradation and backsliding policies. As detailed in APU 90-004, Antidegradation Policy Implementation for NPDES Permitting, if it is determined that the proposed action will not lower water quality, no further antidegradation analysis is required. In this case, the existing water quality will not be reduced due to the proposed action. The proposed permit renewal does not allow an increase in regulated discharge flow. The implementation of more stringent “fixed” ammonia limitations and new limitations for CTR constituents, non-CTR constituents and salinity will provide greater protection of the beneficial uses of the receiving water.

**CSPA COMMENT No. 2. Turbidity.** The modification of turbidity effluent limitations for turbidity based on seasonal dilution ratios allows for a greater mass of turbidity-causing constituents to be discharged and there is no corresponding anti-backsliding or anti-degradation analysis in accordance with Federal Regulations or the antidegradation Policy.

**RESPONSE:** See Response to CSPA Comment No. 1. The Anti-degradation and Anti-backsliding policy apply to potential degradation and backsliding that may occur relative to the currently Regional Water Board-adopted permit. Existing WDR Order No. R5-00-118 includes the requirement of tertiary treatment and compliance with turbidity limitation when the ratio of receiving water to effluent flow is less than 20:1. The proposed permit contains the same tertiary requirement with turbidity effluent limitations that have been upgraded to correspond with more stringent Code of Regulations Title 22 reclamation criteria. Therefore, there is no backsliding from the current WDRs for turbidity and no further antidegradation analysis is required.

**CSPA COMMENT No. 3. Tertiary Treatment.** The modification of ‘Other Special Provisions No. 5a’ by adding the phrase “When required by this Order...” removes the only requirement for tertiary treatment and the proposed Permit is therefore no longer protective of the beneficial uses of the receiving stream and does not correspond with the Findings and Fact Sheet with regard to the need for tertiary treatment.

The proposal to eliminate tertiary treatment when an in-stream dilution of 20-to-1 is available results in bypass of the tertiary filters. Federal regulations [40 CFR §122.41(m)] prohibit the bypass of any treatment process.

**RESPONSE:** There is no bypass of any treatment process. Federal regulations require secondary treatment for POTWs, plus water quality based limits where necessary to protect water quality based effluent limits. (See 40 CFR 133.100 et seq.) The proposed permit requires the Discharger to comply with tertiary level turbidity requirements when the ratio of receiving water flow to effluent discharged is less than 20:1. To maintain the same filter operation requirements in the existing WDR Order No. R5-00-118, the tentative permit has been modified to additionally require the year-round use of the filtration process, with the provision that when high flows provide a minimum 20:1 flow ratio, the filters will be used to the maximum extent possible. Other conventional pollutants, such as biochemical oxygen demand (BOD<sub>5</sub>), total suspended solids (TSS), and total coliform organisms, are limited year-round in accordance with tertiary level requirements.

The Discharger is required to utilize the treatment processes in place that are designed to achieve compliance with the final effluent limitations. When secondary-level turbidity effluent limitations are in effect, the use of the filtration system is required to the maximum extent possible. (The requirement to operate the filter process to the maximum extent possible during wet weather periods has been added to the tentative permit as a late revision for the May 2007 Water Board Meeting.) For this facility, however, the continuous use of the filtration system is required due to the need to reduce turbidity in the wastewater for proper disinfection to occur. During high flow periods when tertiary level turbidity is not required and the filtration of high flows is not achievable, the non-use of the filtration system is not considered a bypass of the necessary treatment units and processes, and is not in violation of Federal Regulations.

**CSPA COMMENT No. 4. Tertiary Treatment.** The modification of effluent limitations to provide tertiary treatment based on instream dilution ratios allows for a greater mass of all pollutants, including pathogens to be discharged and there is no corresponding Antibacksliding or Antidegradation analysis in accordance with Federal Regulations or the Antidegradation Policy.

**RESPONSE:** See Response to CSPA Comment No. 1. As stated in the response to CSPA Comment No. 3 above, the requirements in the proposed Order with respect to turbidity is consistent with the current Order. Proposed effluent limitations for pathogens and other constituents are at minimum as stringent as the existing WDRs and not seasonal. Therefore, discharge of a greater mass of pollutants from the existing WDR Order is not being allowed, backsliding is not occurring, and no further antidegradation analysis is required.

**CSPA COMMENT No. 5. Compliance Determination.** Section VII. states that compliance with mass limitations will be determined during average dry weather periods only when groundwater is at or near normal and runoff is not occurring. Therefore the mass limitations

would not be in effect during wet weather events. Federal regulations at 40 CFR §122.45(f) require the use of mass limitations in all NPDES permit. Mass limitations should be required for all pollutants and compliance with mass limitations should apply year-round, not only during dry weather periods.

**RESPONSE** There are concentration limits in place year-round for every limited constituent. Federal regulations at 40 CFR §122.45 states that mass limitations are required in NPDES permit with the exception of where applicable limitations are expressed in terms of other units (122.45 (f)(ii)). This does not preclude the use of both concentration and mass limitations in the permit. However, it also does not obligate the Regional Water Board to include mass limitations for every constituent.

The mass limitations in the permit are proposed as year-round limitations. Compliance with these year-round mass limitations, however, will only be determined during average dry weather periods. Staff does not believe it is appropriate to determine compliance with mass limitations during high weather flows. Compliance with concentration limits, however, will be determined year-round.

**CSPA COMMENT No. 6.** The compliance time schedules in the proposed permit do not comply with the SIP, the provided information is incomplete (40 CFR 124.8), and the Regional Board's Authority to Issue Compliance Schedules under the CTR has now lapsed in accordance with 40 CFR 131.38(e)(3).

**RESPONSE:** Compliance schedules are proposed in the permit for CTR and non-CTR constituents (with the exception of nitrates in which the compliance schedule is placed in the proposed CDO). Organochlorine pesticides are the only constituents that have a corresponding compliance schedule in which additional time is granted after 18 May 2010 for the Discharger to reduce the effluent concentrations to "non-detect" levels, as required by the Basin Plan. As a late revision, the requirement for the Discharger to comply with organochlorine pesticide CTR-based effluent limits (that demonstrated "reasonable potential") by May 2010 was added to the tentative permit.

The SIP is intended to implement the California Toxic Rule (CTR). The SIP allows compliance schedules that are as short as practicable but in no case (1) allows more than 5 years to come into compliance with CTR-based effluent limitations and (2) allows the compliance schedule to extend beyond 10 years from the effective date of the SIP (18 May 2000) to establish and comply with CTR-based effluent limitations.

The tentative Permit, therefore, includes a time schedule to comply with CTR-based effluent limitations by 18 May 2010 (i.e., 10 years from SIP effective date). The Discharger has provided the technical justification for a compliance schedule (in accordance with Section 2.1 of the SIP) and is required, under the permit, to comply with interim effluent limitations (as required by the SIP), and submit regular progress reports.

In addition, the State Water Board has concluded that where the Regional Water Board's Basin Plan allows for schedules of compliance and the Regional Water Board is newly

interpreting a narrative standard, it may include schedules of compliance in the permit to meet effluent limits that implement a narrative standard. See *In the Matter of Waste Discharge Requirements for Avon Refinery* (State Board Order WQ 2001-06 at pp. 53-55). See also *Communities for a Better Environment et al. (CBE) v. State Water Resources Control Board*, 34 Cal.Rptr.3d 396, 410 (2005).

The Basin Plan for the Sacramento and San Joaquin Rivers includes a provision that authorizes the use of compliance schedules in NPDES permits for water quality objectives that are adopted after the date of adoption of the Basin Plan, which was 25 September 1995 (See Basin Plan at page IV-16). Consistent with the State Water Board's Order in the CBE matter, the Regional Water Board has the discretion to include compliance schedules in NPDES permits when it is including an effluent limitation that is a "new interpretation" of a narrative water quality objective. This conclusion is also consistent with the United States Environmental Protection Agency policies and administrative decisions. See, e.g., *Whole Effluent Toxicity (WET) Control Policy*.

**CSPA COMMENT No. 7. "Pollutant-Free" Wastewater.** The proposed permit discharge prohibitions disallow the discharge of "pollutant free" wastewater into the wastewater collection system when there is no indication that the defined discharges, groundwater, cooling waters and condensates, are pollutant free and may result in illegal discharges to surface waters.

**RESPONSE:** The language in the prohibition is to not allow dilution water to enter the treatment system and potentially interfere with the proper operation of the facility. However, it is noted that some of the examples provided may contain pollutants. Therefore, the examples have been deleted while the prohibition remains.

**CSPA COMMENT No. 8.** Mass-based effluent limits are required by NPDES regulations at 40 CFR 122.45(f) for total chlorine residual. In addition, the commenter stated that the proposed permit does not contain effluent limitations for chronic toxicity and therefore does not comply with Federal regulations at 40 CFR 122.44(d)(1)(i), and the SIP.

**RESPONSE:** 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 Region<sup>1</sup> that contained numeric chronic toxicity effluent limitations. As a result of this 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*

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<sup>1</sup> 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 Water Quality Control Board, Los Angeles Region SWRCB/OCC FILES A-1496 AND 1496(a)

*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 permit process.

As the toxicity control provisions in the SIP are under revision, it is not appropriate to develop numeric effluent limitations for chronic toxicity. Therefore, the proposed permit requires that the Discharger meet best management practices for compliance with the Basin Plan’s narrative toxicity objective, as allowed under 40 CFR 122.44(k). The proposed permit includes Provision H.5, which contains a numeric chronic toxicity monitoring trigger and explicit protocols for accelerated monitoring and toxicity reduction evaluation implementation if a pattern of effluent toxicity is observed. This provision requires the Discharger to investigate the causes of, and identify corrective actions to reduce or eliminate effluent toxicity.

Federal regulations at 40 CFR 122.45(f) require the use of mass limitations in all NPDES permit. One exception to that requirement is in the case where applicable standards and limitations are expressed in terms of other units of measure (122.45 (f)(ii)). As stated in a previous comment, this does not preclude the use of both concentration and mass limitations in the permit. However, it also does not require the Regional Water Board to include mass limitations for every parameter. In this instance, staff determined that mass limitations are not necessary for all constituents.

**CSPA COMMENT No. 9. Acute Toxicity.** The proposed permit contains an effluent limitation for acute toxicity that allows mortality that exceeds the Basin Plan water quality objective and does not comply with Federal regulations, at 40 CFR 122.44(d)(1)(i).

**RESPONSE:** The acute toxicity effluent limitations are consistent with numerous NPDES permits issued by the Central Valley Regional Water Board and throughout the state and are appropriate. The proposed Order as a whole contains several mechanisms designed to ensure that the discharge does not cause toxicity in the receiving water. The Order contains Receiving Water Limitation V.A.14., which proscribes the discharge from causing toxicity in the receiving water. Additionally, end-of-pipe effluent limits are included 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.

In addition to chemical-specific effluent limitations, the proposed Order requires chronic whole effluent toxicity (WET) testing that identify both acute and chronic effluent toxicity. WET testing is necessary because chemical-specific effluent limitations do not address synergistic effects that may occur when the effluent mixes with receiving waters, synergistic

effects of mixtures of chemicals, or toxicity from toxic pollutants for which there are no aquatic life toxicity criteria. To address toxicity detected in WET testing, the proposed Order includes a provision that requires the Discharger to investigate the causes of, and identify corrective actions to reduce or eliminate effluent toxicity. If the discharge exhibits a pattern of toxicity, the Discharger is required to initiate a Toxicity Reduction Evaluation and take actions to mitigate the impact of the discharge and prevent reoccurrence of toxicity.

The acute toxicity effluent limitations establish additional thresholds to control 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 test acceptability criteria for the acute test allow ten percent mortality (requires 90% survival) in the control. Thus, the acute toxicity effluent limitation allows for some test variability, but imposes ceilings for exceptional events (i.e. 30% mortality or more), and for repeat events (i.e., median of three events exceeding mortality of 10%).

**CSPA COMMENT No. 10.** Failure to establish effluent limitations for EC in the proposed permit that are protective of the chemical constituents water quality objective blatantly violates Federal regulations, 40 CFR 122.44(d)(i).

**RESPONSE:** Effluent limitations for EC are included in the proposed permit.

**CSPA COMMENT No. 11.** The average daily discharge flow effluent limitation is not properly defined in the proposed permit.

**RESPONSE:** The definition used is consistent with recently adopted NPDES permit. Further clarification of the regulated flow is provided in Section VIII.A (Compliance Determination) of the proposed Order that refers to the average dry weather flow as the average flow during the three driest months of the year.

**CSPA COMMENT No. 12.** The topographic map and flow schematic are missing from the proposed permit.

**RESPONSE:** This has been corrected.

**CSPA COMMENT No. 13.** The sampling type for metals is inappropriately specified as “grab” in the proposed Monitoring and Reporting Program.

**RESPONSE:** There are no requirements in 40 CFR Part 136 as to whether grab or composite samples are to be used for metals sampling. Therefore, the Regional Water Board has the discretion to use either method in the collection of wastewater samples. As the facility is a small POTW with no industrial contribution to its influent and a low discharge flow, grab samples are appropriate in this instance.

**CSPA COMMENT No. 14.** The proposed permit fails to consider effluent variability in determining reasonable potential in violation of Federal Regulation 40 CFR 122.44 (d)(1)(ii) and fails to include effluent limitations for chloride and sulfate in violation of Federal

Regulations 40 CFR 122.44, 40 CFR 122.44(a), (d), and (g) and California Water Code, section 13377.

**RESPONSE:** Staff conducted the reasonable potential analysis in accordance with the procedures contained in the SIP for all parameters. Based on the results of the reasonable potential analysis, reasonable potential did not exist for chloride and sulfate to cause or contribute to an exceedance of a water quality standard. However, effluent limitations have been established for electrical conductivity, which is an indicator parameter for both parameters.

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

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**CVCWA COMMENT No. 1.** CVCWA states that floating limits should be examined and the use of upstream hardness values does not always provide the most protective limit.

**RESPONSE:** The effluent limitations are to be protective of the beneficial uses of the receiving water. For hardness dependent metals, toxicity increases as the hardness values of the water decrease. For this permit, the lowest measured hardness value was in the upstream receiving water. For ammonia, as temperature increases, toxicity increases. The highest measured temperature value was from the effluent. In order to be protective of the beneficial uses, these values were used in determining the criteria and in the subsequent development of effluent limitations.

**CVCWA COMMENT No. 2.** CVCWA questions the EC limit in the permit and the requirement for immediate compliance.

**RESPONSE:** Effluent monitoring data indicates that the Discharger is able to immediately comply with the proposed performance-based EC effluent limitation of 700 umhos/cm.

**CVCWA COMMENT No. 3.** CVCWA requests a longer compliance date for aluminum.

**RESPONSE:** Regional Water Board staff believes that the proposed compliance schedule is sufficient for the facility to come into full compliance with the final effluent limitations. The Regional Water Board may consider issuance of an Enforcement Order to grant more time for compliance if it is deemed necessary as the May 2010 compliance date approaches.

**CVCWA COMMENT No. 4.** CVCWA questions the reopener provision in the proposed permit.

**RESPONSE:** Reopener provisions are appropriate when data indicate a need to apply additional limitations or restrictions on a discharge to be protective of human health and the environment.

**CVCWA COMMENT No. 5.** CVCWA states that the Special Provision addressing Mineralization is vague and should be removed.

**RESPONSE:** The Special Provision addressing mineralization refers to the requirement regarding the use of Best Practicable Treatment or Control to reduce minerals in the discharged to receiving waters. The wording in this provision has been combined with the requirement for a Salinity Minimization Plan to provide the necessary clarification regarding necessary effort to reduce mineralization in the effluent.