



CVCWA Central Valley Clean Water Association

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January 20, 2008

Mr. W. Dale Harvey
Senior WRC Engineer
Regional Water Quality Control Board
Central Valley Region
1685 E Street
Fresno, CA 93706

SUBJECT: Tentative Waste Discharge Requirements for the Malaga County Water District, Malaga Wastewater Treatment Facility (NPDES No. CA0084239)

Dear Mr. Harvey:

The Central Valley Clean Water Association (“CVCWA”) appreciates the opportunity to provide comments on the *Tentative Waste Discharge Requirements for the Malaga County Water District Wastewater Treatment Facility* (“WWTF”) (“Tentative Order”), prepared by the Regional Water Quality Control Board (“Regional Water Board”) staff. In particular, CVCWA is concerned with the use of Resolution 88-63 to designate municipal beneficial uses to surface waters in the Tulare Lake Basin where MUN is clearly not appropriate. In addition, the Tentative Order inappropriately applies compliance schedule dates for California Toxic Rule (“CTR”) constituents to non-CTR constituents. Finally, the Tentative Order also indicates that the Regional Water Board staff has selected a hardness value to calculate CTR metals criteria that is inconsistent with Regional Water Board policy. Our comments on these issues are provided below.

Resolution 88-63 to Designate MUN

According to the Tentative Order, the WWTF discharges to the Central Canal. The Central Canal is not specifically listed in the Water Quality Control Plan for the Tulare Lake Basin (“Basin Plan”) and the “tributary rule” does not apply because it is a man-made conveyance. (Tentative Order at p. 5.) Nevertheless, the Tentative Order appears to apply MUN to the Central Canal through the State Water Resources Control Board’s (State Water Board) “Sources of Drinking Water Policy” (“Resolution 88-63”) even though MUN does not currently occur in the Central Canal and is not anticipated to occur in the future. (See Tentative Order at pp. 5, F-9, and F-44.) Notwithstanding the Regional Water Board’s policy position with regards to the designation of

uses through Resolution 88-63, it is clearly in error here because the Tulare Lake Basin does not incorporate Resolution 88-63 to designate MUN to surface waters.

The language of the Tulare Lake Basin Plan clearly shows that Resolution 88-63 was incorporated into this Basin Plan only for application to ground water.

Due to the 'Sources of Drinking Water Policy,' **all ground waters are designated MUN** (the use may be existing or potential) unless specifically exempted by the Regional Board and approved for exemption by the State Water Board. Ground water areas exempted from MUN are footnoted in Table II-2." (Basin Plan at p. II-2, emphasis added.)

The Basin Plan contains no similar language that is applicable to surface water. Without similar language in the Basin Plan that would apply to surface waters, the Basin Plan does not support the use of Resolution 88-63 in designating MUN to surface waters in the Tulare Lake Basin.

In fact, the State Water Board has opined regarding the Sacramento-San Joaquin Basin Plan,

Resolution No. 88-63 did not itself designate uses for any waterbody. Rather, the resolution established a state policy that the Regional Boards were required to implement in their basin plans. The Central Valley Regional Board chose to implement Resolution No. 88-63 through a blanket MUN designation for all unidentified waterbodies in the region. Having made the designation, the Central Valley Regional Board is now required to go through another rulemaking process to change the designation. Thus, the Central Valley Regional Board correctly concluded that a basin plan amendment is required to change the MUN designation for Old Alamo Creek.

(In re Matter *City of Vacaville* WQO 2002-0015 at p. X.) The State Water Board was referring to the Central Valley's incorporation of Resolution 88-63 into the Water Quality Control Plan for the Sacramento and San Joaquin River Basins, which does contain language that applies Resolution 88-63 to surface waters. (See Sacramento and San Joaquin River Basin Plan at pp. II-2.00 – II-3.00.) The fact that the same Regional Water Board did not apply Resolution 88-63 to surface waters in the Tulare Lake Basin Plan is significant. Clearly, it follows that such designation does not exist without the blanket MUN designation referenced in the State Water Board's order.

Thus, the Tentative Order erroneously applies MUN to the Central Canal through the Regional Water Board's incorporation of Resolution 88-63 into the Tulare Lake Basin Plan because such incorporation only applies to ground water. To correct the error, the Regional Water Board must revise the Tentative Order to exclude the application of MUN from the Central Canal. Furthermore, the Regional Water Board must revise the Tentative Order to also exclude any permit limitations contained within that are solely intended to protect the MUN use.

CTR Compliance Schedule for Non-CTR Constituents

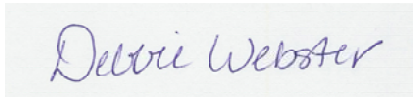
CVCWA encourages the Regional Water Board staff to re-evaluate the compliance schedule proposed for ammonia, which is currently set in the discharge limitations section of the Tentative Order for May 17, 2010, which is the mandatory compliance date for CTR constituents. It is inappropriate to generically apply the CTR compliance date to non-CTR constituents. Under the Basin Plan, the Regional Water Board must determine the compliance schedule that is as short as practicable, without exceeding ten years.

Selection of Hardness Value for CTR Hardness-Dependent Criteria

The Tentative Order states “effluent limitations must be set using the worst-case condition (*e.g.*, lowest ambient hardness) in order to protect beneficial uses for all discharge conditions.” (Tentative Order at p. F-15.) This approach for selecting hardness has been determined to not be reasonably protective of the receiving water and is no longer used by the Regional Water Board in NPDES permits. In lieu of using the lowest ambient hardness value, the Regional Water Board believes it appropriate to set effluent conditions using “reasonable worst-case conditions.” To determine “reasonable worst case,” the Regional Water Board has recently endorsed an approach put forward in technical studies prepared by Dr. Robert Emerick (ECO:Logic) and Dr. Mitchell Mysliwiec (Larry Walker Associates). (See Waste Discharge Requirements and Master Reclamation Permit for City of Lodi White Slough Water Pollution Control Facility (Order No. R5-2007-0113, NPDES No. CA0079243) at pp. F-18 – F-19.) Based on the studies, the selection of hardness varies for different metals, depending on the shape of the hardness-dependent criteria curve established in the CTR. In summary, for some metals, the most protective approach is to use the lowest effluent hardness while for others it consists of a blend between receiving water and effluent hardness. Because the selection of an appropriate hardness value(s) is a critical step in determining reasonable potential and calculating effluent limitations, the Tentative Order must be revised to reflect the Regional Water Board’s more technically valid, recent approach for this task.

Thank you for consideration of these issues. If you have any questions, please call me at 530-268-1338.

Sincerely,

A handwritten signature in blue ink that reads "Debbie Webster". The signature is written in a cursive style and is centered within a light gray rectangular box.

Debbie Webster, Executive Officer
Central Valley Clean Water Association

c: Debra Bates, CVRWQCB (via email)
Russ Holcomb, Malaga County Water District