



CVCWA

Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies

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August 27, 2012

Via Electronic Mail

Katie Bowman
Regional Water Quality Control Board
Central Valley Region
364 Knollcrest Drive, Suite 205
Redding, CA 96002
kbowman@waterboards.ca.gov

Re: Comments on the Tentative Waste Discharge Requirements for the City of Biggs' Wastewater Treatment Plant

Dear Ms. Bowman,

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to submit these comments on the tentative waste discharge requirements (Tentative Order) for the City of Biggs' (City) Biggs Wastewater Treatment Plant (Biggs WWTP). CVCWA is a non-profit organization that represents more than 50 publicly owned treatment works throughout the Central Valley Region in regulatory matters affecting surface water discharge, land application, and water reuse. We approach these matters with a perspective that balances environmental and economic interests consistent with state and federal law.

As you know, CVCWA reviewed the Tentative Order. On August 9, 2012, we sought clarification from you regarding two issues: (1) whether the Tentative Order inadvertently included treatment pond turbidity requirements at Section VI.C.4.a.xii (p. 25); and (2) whether the Tentative Order was supposed to contain a compliance schedule for the Special Provision at Section VI.C.6 (p. 28) related to treatment in accordance with Title 22 of the California Code of

Regulations (Title 22), or equivalent, as indicated in that section. On August 10, 2012, we received your email stating that you would remove the turbidity requirements and reference to the compliance schedule, as they do not apply to the Biggs WWTP. We support the removal of the turbidity requirements and thank you for your attention and prompt response to these issues.

For the reasons described in more detail below, we respectfully request that you also modify the Tentative Order to: (1) include alternative final effluent limitations for total coliform organisms that apply when there is dilution of 20:1 or more in the receiving water (Lateral K); (2) account fully for the Special Provision related to treatment in accordance with Title 22, or equivalent; (3) reflect that the municipal and domestic supply use (MUN) does not apply to Lateral K; and (4) make the findings regarding ammonia consistent with the applicable water quality objective.

A. The Tentative Order Should Include Alternative Effluent Limitations for Total Coliform Organisms That Apply When There Is at Least 20:1 Dilution

The Tentative Order contains the following final effluent limitations for total coliform organisms: 2.2 most probable number (MPN) per 100 milliliter (mL) as a 7-day median, 23 MPN/100 mL not to be exceeded more than once in any 30-day period, and 240 MPN/100 mL as an instantaneous maximum. (Tentative Order at p. 11.) These limitations apply regardless of the dilution available in Lateral K. As the Tentative Order's Fact Sheet recognizes, there is at times dilution of at least 20:1 in Lateral K. Consistent with the California Department of Public Health's recommendation for receiving waters that provide dilution of 20:1 or greater, the Tentative Order should include alternative final effluent limitations for total coliform organisms. In particular, the Tentative Order should be modified and the alternative effluent limitations specified as follows:

e. Total Coliform Organisms. When the wastewater receives dilution of less than 20:1, effluent ~~Effluent~~ total coliform organisms shall not exceed:

- i. 2.2 most probable number (MPN) per 100 mL, as a 7-day median;
- ii. 23 MPN/100mL no more than once in any 30-day period; and
- iii. 240 MPN/100 mL, as an instantaneous maximum.

When the wastewater receives dilution of 20:1 or more, effluent total coliform organisms shall not exceed:

- i. 23 MPN/100 mL, as a 7-day median; and
- ii. 240 MPN/100 mL no more than once in any 30-day period. (Tentative Order at p. 11.)

We believe that Central Valley Regional Water Quality Control Board (Central Valley Water Board) staff may have intended to include these alternative effluent limitations in the Tentative Order. The Tentative Order's Fact Sheet states that the permit prescribes such effluent limitations. (Tentative Order at p. F-28.)

B. The Tentative Order Does Not Fully Account for the Special Provision Requiring Treatment in Accordance With Title 22 or Equivalent

It appears that the Tentative Order's Special Provision directing that wastewater be "oxidized, coagulated, filtered, and adequately disinfected" pursuant to reclamation criteria of Title 22, or equivalent, is a new, more stringent permit requirement for the Biggs WWTP. (Tentative Order at p. 28.) You indicated in your August 10, 2012 email, that the permit presented to the Central Valley Water Board for adoption will not include a compliance schedule for this requirement. Upon review of the Tentative Order (including the Fact Sheet), it is not clear whether the Biggs WWTP can immediately comply with this requirement. We believe that the Tentative Order should be revised to provide clarification in this regard and to include a compliance schedule if necessary.

C. The Tentative Order Should Be Modified to Reflect that Lateral K is an Agricultural Drain to Which MUN Does Not Apply

The Tentative Order represents a new interpretation of the State's Sources of Drinking Water Policy (Resolution No. 88-63) as incorporated into the Basin Plan¹ and applied to Lateral K. (Tentative Order at pp. 4, F-13 to F-14.) This new interpretation results in MUN being applied to Lateral K for the first time. (*Id.* at pp. F-13 to F-14.) As the Tentative Order finds, "Lateral K was constructed to drain or convey excess agricultural flows away from fields." (*Id.* at p. 4.) However, the Tentative Order fails to acknowledge that Resolution No. 88-63's general determination that surface waters of the state should be designated MUN contains an exception where:

The water is in systems designed or modified for the primary purpose of conveying or holding agricultural drainage waters, provided that the discharge from such systems is monitored to assure compliance with all relevant water quality objectives as required by the Regional Boards. (Resolution No. 88-63 at p. 2.)

That is, constructed agricultural drains, such as Lateral K, are exempt from MUN designation under Resolution No. 88-63. The Basin Plan incorporates Resolution No. 88-63 without qualification and states: "In making any exemptions to the beneficial use designation of

¹ The Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin, Central Valley Water Board (4th ed., revised Oct. 2011) (Basin Plan).

MUN, *the Regional Board will apply the exceptions listed in Resolution 88-63.*" (Basin Plan at p. II-2.01, emphasis added.) As Lateral K qualifies for Resolution No. 88-63's exception for constructed agricultural drains, we request that the Tentative Order be revised to remove the MUN designation and related requirements.

A memorandum from Senior Staff Counsel of the State Water Resources Control Board further supports this request. The memorandum states that the agricultural drains described in Resolution No. 88-63 are excepted from the MUN designation as Resolution No. 88-63 is incorporated into the Basin Plan. (Memorandum to D. Westcot from E. Miller Jennings (March 3, 1994) at p. 2, Attachment 2.) The memorandum further states: "The designation of beneficial uses in constructed agricultural drains is not covered by either the tributary footnote or the Sources of Drinking Water Policy." (*Id.* at p. 3.)

We are aware that the application of MUN to agricultural drains under Resolution No. 88-63 as incorporated into the Basin Plan is being judicially challenged by the City of Vacaville.² The case is currently pending before the California Court of Appeal, and we expect the court to render a decision sometime this fall. Therefore, the Tentative Order could include a reopener provision stating that, depending on the outcome of the case, the permit may be reopened to add a finding that the MUN use applies to Lateral K and related requirements.

D. The Findings Regarding Ammonia Should Be Revised to Be Consistent With the Applicable Water Quality Objective

The Tentative Order's findings regarding reasonable potential for ammonia state:

The Discharger does not currently use nitrification to remove ammonia from the waste stream. Inadequate or incomplete nitrification may result in the discharge of ammonia to the receiving stream. Ammonia is known to cause toxicity to aquatic organisms in surface waters. *Discharges of ammonia would violate the Basin Plan narrative toxicity objective.* (Tentative Order at p. F-25, emphasis added.)

The Basin Plan's narrative toxicity objective referred to in the last sentence quoted above provides in part: "All waters shall be maintained free of toxic substances *in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life.*" (Basin Plan at p. III-8.01, emphasis added.) To ensure consistency with the Basin Plan, we request that you modify the last sentence of the quoted findings to state: "Discharges of ammonia in

² An open legal question being judicially challenged is whether Resolution No. 88-63 is invalid so that it may not be applied to determine that water bodies have the beneficial use of MUN. The state Office of Administrative Law (OAL) held that Resolution No. 88-63 was a "regulation" subject to the California Administrative Procedure Act (APA), but was not adopted in accordance with the APA. If Resolution No. 88-63 is found to be invalid, its use to find Lateral K designated MUN would be improper on this ground.

concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life would violate the Basin Plan narrative toxicity objective.” Alternatively, the sentence could be modified as follows: “Discharges of ammonia in toxic amounts would violate the Basin Plan narrative toxicity objective.” (See *NPDES Permit Writers’ Manual*, EPA-833-K-10-001 (Sept. 2010) at p. 6-12 [recognizing that states may adopt “narrative ‘no toxics in toxic amounts’ criterion”].)

CVCWA appreciates your consideration of these comments and requested revisions. Please feel free to contact me at (530) 268-1338 or ecofficer@cvcwa.org if I can be of further assistance.

Sincerely,



Debbie Webster,
Executive Officer

c: (via electronic mail)
Pamela Creedon, Central Valley RWQCB