

**Regional Water Quality Control Board
Central Valley Region**

Board Meeting – 4/5 October 2012

**Response to Written Comments on
Tentative Waste Discharge Requirements for**

**City of Biggs,
Biggs Wastewater Treatment Plant**

13 September 2012

At a public hearing scheduled for 4/5 October 2012, the Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) will consider adoption of tentative Waste Discharge Requirements (NPDES No. CA0078921) for the City of Biggs Wastewater Treatment Plant (WWTP). This document contains responses to written comments received from interested parties in response to the Tentative Order. Written comments from interested parties were required to be received by the Central Valley Water Board by 27 August 2012 in order to receive full consideration. Comments were received prior to the deadline from:

1. U.S. EPA (received 24 August 2012)
2. Central Valley Clean Water Association (CVCWA) (received 27 August 2012)

Written comments from the above interested parties are summarized below, followed by the response of Central Valley Water Board staff. In addition, Central Valley Water Board staff has corrected several errors in the permit, included as CVCWA's comments #4 and #5.

U.S. EPA COMMENTS

U.S. EPA – COMMENT #1:

What % removal does the facility achieve? Is there data from the previous permit term for % removal?

The information is not included in the historical data table in the Fact Sheet, and it's important in determining whether the facility meets the equivalent to secondary criteria (65 % removal of BOD and TSS).

RESPONSE:

The previous permit (R5-2007-0032) contained the following:

- a. *Percent Removal: The average monthly percent removal of BOD 5-day 20°C and total suspended solids shall not be less than 65 percent.*

Reviewing the historical data, Biggs WWTP has the following:
BOD removal rate at approximately 78% (range from 43 – 93% removal) and
TSS removal rate at approximately 90% (range from 73 – 98% removal)

Central Valley Water Board staff concurs and the tentative Order (Table F-2) will be amended to include the historical removal efficiencies for BOD and TSS. Past performances indicate that the facility meets the “equivalent to secondary standards” criteria.

CENTRAL VALLEY CLEAN WATER ASSOCIATION COMMENTS (CVCWA)

CVCWA – COMMENT #1:

CVCWA requests that the Order be modified to include alternative final effluent limitations for total coliform organisms that apply when there is dilution of 20:1 or more in the receiving water.

RESPONSE:

Central Valley Water Board staff concurs, and will add in the requested language in the Order and the Fact Sheet. Final Effluent Limitations (Section IV.A.1.e.) will be rewritten as:

- 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/100mL, as a 7-day median, and
- ii. 240 MPN/100 mL, no more than once in any 30-day period.

CVCWA – COMMENT #2:

CVCWA asserts that the Tentative Order does not fully account for the special provision requiring treatment in accordance with Title 22 or equivalent. CVCWA believes that the Tentative Order should be revised to provide clarification and to include a compliance schedule if necessary.

RESPONSE:

Central Valley Water Board staff concurs, and has added clarifying language to the Tentative Order regarding the Disinfection Requirements special provision. Based on effluent monitoring data, Biggs WWTP can comply with this new requirement for

coliform. However, some improvements may be necessary in order to assure future compliance. Therefore, the proposed permit contains a reopener to establish a compliance schedule if compliance with the disinfection requirements is not achievable. The tentative Order also contains new operational requirements for turbidity to meet the Title 22 filtration requirements. A compliance schedule is included to allow time for the Discharger to make the necessary improvements to meet the new Title 22 filtration and turbidity requirements when there is dilution <20:1.

CVCWA – COMMENT #3:

The Tentative Order should be modified to reflect that Lateral K is an Agricultural Drain to which the municipal beneficial use (MUN) does not apply, and requests that the Tentative Order be revised to remove the MUN designation and related requirements.

RESPONSE:

Central Valley Water Board staff concurs that the receiving water may have been constructed or modified for the purpose of conveying agricultural drainage water, as specified in the criteria of Exception No. 2.b. of Resolution No. 88-63. However, Central Valley Water Board staff does not concur that the MUN designation is inappropriate. The Central Valley Water Board does not have the authority to grant an exception to Resolution No. 88-63 through an individual NPDES Permit adoption action. As discussed in Finding II.H of the proposed NPDES Permit, the MUN beneficial use is applied to the receiving waters based on Resolution No. 88-63, which establishes that all waters (with certain exceptions) should be considered suitable or potentially suitable for municipal or domestic supply. The Central Valley Water Board implemented this policy by designating all unnamed water bodies as having the MUN use. Basin Plan, page II-2.01, states that the Central Valley Water Board may de-designate MUN based on the applicability of one or more of the Resolution No. 88-63 exceptions; however, as specified in page VI-9.00, de-designation of a MUN use must occur through a formal basin plan amendment process.

Moreover, this approach is consistent with subsequently adopted State Board orders. As recognized in the Vacaville Order, the Central Valley Water Board chose to implement 88-63 through a blanket MUN designation for all unidentified water bodies in the region. Therefore, given that the Central Valley Water Board has made such a designation, the Central Valley Water Board would be required to go through another rulemaking process to change the designation. (WQ Order No. 2002-0015 at pp. 16-17.) See also In the Matter of the Petition of Curtis D. Quinones and Vapor Cleaners, Inc. WQ Order No. 2006-0010 at p. 2, noting that (1) beneficial uses are designated in the Basin Plan through a quasi-legislative process rather than on a case-by-case basis, as in a permit or cleanup order; (2) a Basin Plan amendment is the appropriate vehicle to designate or de-designate uses and that Resolution 88-63 is a tool in designations; and (3) it is not self-implementing. Most recently, the California Court of Appeal in California Association of Sanitation Agencies v. State Water Resources Control Board upheld this approach and the State Water Board's Vacaville Order.

The following additional language has been added to findings in Section II.H. for clarity: ... However the Basin Plan implements State Water Resources Control Board (State Water Board) Resolution No. 88-63, which established state policy that all waters, with certain exceptions, should be considered suitable or potentially suitable for municipal and domestic supply. One exception is if 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 Central Valley Water Boards. In accordance with Chapter IV of the Basin Plan, the Central Valley Water Board must adopt a formal Basin Plan Amendment to grant an exception to Resolution No. 88-63. Therefore, until the Central Valley Water Board adopts a Basin Plan Amendment for an exception, and the State Water Board and Office of Administrative Law approve the Basin Plan Amendment, the receiving water is considered to be suitable or potentially suitable for municipal or domestic supply in accordance with State Water Board Resolution No. 88-63.

Additional language has also been added to Section IV.C.2. of the Fact sheet as follows:

The previous Order No. R5 2007-0032, established secondary level effluent limitations for protection of beneficial uses of the receiving water. The previous permit, however, did not recognize the MUN beneficial use to the receiving water. Although the receiving waters consist of modified agricultural drains (Lateral K), which is specifically not designated with the MUN beneficial use in Table II-1 in the Basin Plan, this Order correctly interprets the beneficial uses of the receiving waters to include the beneficial use of MUN through implementation of State Water Board Resolution No. 88-63. As stated in Chapter II of the Basin Plan, "Water Bodies within the basins that do not have beneficial uses designated in Table II-1 are assigned MUN designations in accordance with the provisions of State Water Board Resolution No. 88-63 which is, by reference, a part of the Basin Plan" except for two non-applicable exceptions. Furthermore, as specified in Chapter IV of the Basin Plan, an exception to Resolution No. 88-63, and removal of the MUN beneficial use designation for the receiving waters, is effective after a Basin Plan Amendment is adopted by the Central Valley Water Board and approved by the State Water Board and Office of Administrative Law. Therefore, this Order contains new effluent limitations necessary to protect the municipal and domestic supply use of the receiving waters.

CVCWA – COMMENT #4:

CVCWA asserts that the findings in the Tentative Order for ammonia should be revised to be consistent with the applicable water quality objective. CVCWA requests that the Tentative Order be modified to include, on p. F-25, "Discharges of ammonia in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life or in toxic amounts would violate the Basin Plan narrative toxicity objective."

RESPONSE:

Central Valley Water Board staff concurs and will make the requested changes to the ammonia language.

CVCWA – COMMENT #5:

Are the turbidity requirements at Section VI.C.4.a.xii (p. 25) specific to the treatment pond, or do they stand alone?

RESPONSE:

The turbidity requirements were inadvertently placed in the treatment pond operating requirements. They have been removed from that section, and are in a “stand alone” section entitled “Turbidity Operational Requirements” within the Construction, Operation and Maintenance Specifications (Section VI.C.4.b.). These turbidity requirements are proposed for the effluent when dilution is <20:1, to meet the new disinfection and filtration requirements. Because this permit requires filtration, and the wastewater treatment plant does not currently provide filtration, the tentative permit includes a compliance schedule to allow time for the Discharger to make necessary improvements.

CVCWA – COMMENT #6:

Section VI.C.6.a (p. 25) required wastewater to be “oxidized...In accordance with the compliance schedule in Section VI.C.7.a, below”. Is there supposed to be a compliance schedule and/or Section VI.C.7?

RESPONSE:

Central Valley Water Board staff has modified the text as shown below. The compliance schedule was inadvertently left out of the Tentative Permit, but is necessary to allow time for the Discharger to make the necessary improvements. Section VI.C.6.a. and Section VI.C.7 has been modified as follows:

6. Other Special Provisions

- a. When dilution is <20:1, the wastewater shall be oxidized, coagulated, filtered, and adequately disinfected pursuant to the Department of Public Health (DPH; formerly the Department of Health Services) reclamation criteria, CCR, Title 22, division 4, chapter 3, (Title 22), or equivalent, in accordance with the compliance schedule in Section VI.C.7.a, below. Adequately disinfected shall mean that the wastewater meets the total coliform bacterial effluent limits contained in this permit. Filtered means that the wastewater meets the definition of “Filtered Wastewater” contained in California Code of Regulations title 22, section 60301.320.

7. Compliance Schedules

- a. Compliance Schedule for Filtration and Turbidity.** This permit requires that wastewater discharged to Lateral K during critical flow periods (<20:1 dilution in receiving water) shall be filtered and adequately disinfected. The effluent shall be disinfected in accordance with the total coliform organisms effluent limitations set forth in this Order. Because filtration is required, and the wastewater treatment plant does not currently provide filtration, this compliance schedule allows time for the Discharger to make necessary improvements. Until final compliance, the Discharger shall submit progress reports in accordance with the Monitoring and Reporting Program (Attachment E, section X.D.1). The Discharger shall comply with the following time schedule to ensure compliance with the requirements of this permit.

Table 8. Compliance Schedule for Filtration and Turbidity

<u>Task</u>	<u>Date Due</u>
i. <u>Submit Method of Compliance Work Plan/Schedule</u>	<u>Within 6 months</u> after adoption of this Order.
ii. <u>Progress Reports</u> ¹	<u>1 February</u> , annually, after approval of work plan until final compliance
iii. <u>Full Compliance</u>	<u>5 years from effective date of Order.</u>
¹ <u>The progress reports shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including studies, construction progress, evaluation of measures implemented, and recommendations for additional measures as necessary to achieve full compliance by the final compliance date.</u>	