



CVCWA

Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies

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October 19, 2015

Via Electronic Mail Only

Mr. Tyson Pelkofer
Water Resources Control Engineer
Regional Water Quality Control Board,
Central Valley Region
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RB5S-NPDES-Comments@waterboards.ca.gov
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RE: Comments on the Tentative Waste Discharge Requirements for City of Galt, Wastewater Treatment Plant and Reclamation Facility, Sacramento County

Dear Mr. Pelkofer:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to comment on the tentative reclamation permit for the City of Galt, Wastewater Treatment Plant and Reclamation Facility (Tentative Order). CVCWA is a non-profit association of public agencies located within the Central Valley region that provide wastewater collection, treatment, and water recycling services to millions of Central Valley residents and businesses. We approach these matters with the perspective of balancing environmental and economic interests consistent with state and federal law. In this letter, we provide the following comments regarding the citations to federal authorities, the interpretation of the Title 27 exemptions, certain land discharge specifications that are not consistent with Title 22, the groundwater limitation for total nitrogen, and the storm water discharge prohibition.

I. References to Federal Authorities

It appears that the Tentative Order was developed using the template for NPDES permits. However, the Tentative Order is intended to regulate discharges of treated wastewater and biosolids to land. Use of the NPDES permit template for this context results in some inappropriate references to statutes and regulations that do not apply, as well as being more complicated than a typical waste discharge requirements order. CVCWA requests that the citations and reliance on statutes and regulations that apply to NPDES permits be deleted. For example, Water Code section 13383 (cited on pages 4, E-1, and section IV of the Fact Sheet) applies when the state is exercising its permitting authority under the federal Clean Water Act. Similarly, citation to the federal bypass regulation, section 122.44(m) of Title 40 of the Code of Federal Regulations, is not necessary to justify the bypass prohibition contained in Provision E.2 of the Standard Provisions and Reporting Requirements for Waste Discharge Requirements. These citations should be deleted, and the Regional Board should rely on its authority under state law when regulating discharges to land.

II. Title 27 Exemptions

The Tentative Order explains that Effluent Storage Reservoir and four Effluent Storage Ponds are exempt from the requirements of Title 27 of the California Code of Regulations (Title 27). The Tentative Order distinguishes which exemption applies during certain periods or uses based on whether the facilities are being used to store undisinfected secondary treated wastewater prior to agricultural reuse or tertiary treated wastewater that does not meet permit limits. The Tentative Order suggests that the section 20090(a) exemption for sewage treatment only applies to the latter, whereas the section 20090(b) exemption for wastewater applies to the former.

Under the State Water Resources Control Board's (State Board) precedential Order WQ 2012-0001, the State Board clarified the scope of the unconditional exemption provided in section 20090(a) of Title 27. Specifically, treatment and storage facilities are included within the unconditional category in section 20090(a) if the storage and treatment facilities are "associated with municipal wastewater treatment." To be "associated with municipal wastewater treatment," the facilities (1) must be used to store treated municipal wastewater prior to ultimate disposal or reuse, (2) must not receive any other wastes other than on-site stormwater flows if authorized, and (3) must be under the control of the municipal treatment plant.¹ This category has no preconditions.²

¹ See State Board Order WQ 2012-0001, *In the Matter of Own Motion Review of City of Lodi Waste Discharge Requirements and Master Reclamation Permit (Order No. R5-2007-0013 [NPDES No. CA0079243]) Issued by the California Regional Water Quality Control Board, Central Valley Region (2012)*, pp. 8-9.

² *Ibid.*

The Effluent Storage Reservoir and four Effluent Storage Ponds qualify for the unconditional exemption from Title 27 under section 20090(a). Based on the Fact Sheet, the facilities store treated wastewater prior to further treatment, ultimate disposal, or reuse, do not receive other waste streams, and are within the control of the municipal treatment plant.³ CVCWA respectfully requests that the Regional Board revise its findings and apply the unconditional exemption under section 20090(a) for the Effluent Storage Reservoir and four Effluent Storage Ponds.

III. Land Discharge Specifications

The Tentative Order explains that undisinfected secondary effluent from the treatment plant is applied to the agricultural Reuse Area where animal feed crops are grown. Accordingly, the Tentative Order provides discharge specifications for the agricultural Reuse Area. However, some of the specifications are not based on the criteria in Title 22 of the California Code of Regulations (Title 22), are more stringent than those criteria, or do not provide the necessary qualifications.

For example, Provision IV.C.3.d provides setback requirements for the Reuse Area, including minimum setbacks of 25 feet from the edge of the land application area (LAA) to property boundaries; 30 feet from the edge of the LAA to a public road right of way; 100 feet from the edge of the LAA to an irrigation well; 50 feet from the edge of the LAA to manmade or natural surface water drainage course; 150 feet from the edge of the LAA to a domestic well; 100 feet from the edge of the LAA to residences; and 100 feet from the edge of the LAA to public areas like playgrounds and school yards.⁴ In comparison, Title 22 only restricts use of undisinfected secondary recycled water near domestic water supply wells (150 feet minimum), residences (100 feet minimum), and places where public exposure could be similar to a park, playground, or school yard (100 feet minimum).⁵ The other setback provisions in the Tentative Order are not based on or related to the requirements in Title 22.

Similarly, the Tentative Order requires the City to post perimeter signs at least every 500 feet along the property boundary where public access may occur and at each access road entrance to the property.⁶ There is no such spacing requirement in Title 22.

CVCWA respectfully requests that the specifications that are not part of Title 22 be deleted from the Tentative Order. Placing these types of arbitrary setbacks in permits unnecessarily restricts recycled water uses. This is especially the case where the LAAs are

³ See Tentative Order, Fact Sheet, section III.C.1.

⁴ Tentative Order, p. 14.

⁵ Cal. Code Regs., tit. 22, § 60310(c), (f).

⁶ Tentative Order, p. 13.

located throughout the site and where the discharger is in the process of constructing new facilities. Any changes that become necessary to the design that are inconsistent with the setback provisions require that the order be reopened.

IV. Total Nitrogen Groundwater Limitation

Section V.A of the Tentative Order proposes a groundwater limitation of 10 mg/L for total nitrogen.⁷ This is in addition to a groundwater limitation of 10 mg/L for nitrate (as N). Setting a groundwater limitation for total nitrogen is inappropriate for several reasons. There is no water quality objective for total nitrogen. There is a primary maximum contaminant level (MCL) for nitrate, but not for total nitrogen. For this reason, the proposed limit is not consistent with any adopted water quality objective or known criteria.

Total nitrogen is also different and distinguishable from nitrate, and setting a groundwater limit for total nitrogen will not necessarily translate to obtaining the target nitrate levels. There are no findings in the Tentative Order that provide any reasoning or explanation why a total nitrogen effluent limit will result in maintaining groundwater quality at the Primary MCL of 10 mg/L for nitrate. At most, the Regional Board could determine that a groundwater limitation for nitrate is appropriate to protect groundwater quality. CVCWA requests that the groundwater limitation for total nitrogen be removed from the Tentative Order.

V. Discharge Prohibition for Storm Water

The Tentative Order explains that storm water drainage from the Reuse Area is collected in earthen ditches at the edge of each field and then pumped to the effluent storage facilities where it is held until its eventual reuse or it is sent to the headworks for further treatment. The Tentative Order expresses concern that there is not enough storage capacity to collect storm water runoff during the winter storm season. Due to this concern, the Tentative Order grants the City until 2020 to comply with the storm water runoff prohibition so it may construct the necessary facilities.⁸

CVCWA has fundamental concerns with the storm water runoff prohibition, which would become effective on December 1, 2020.⁹ Specifically, the Tentative Order and accompanying Fact Sheet provide no justification for prohibiting storm water runoff, especially considering all other applicable requirements that provide for time between application of wastewater and/or biosolids. For example, no evidence is provided or referred to suggesting that wastewater and/or biosolids applied more than 30 days prior to any storm has the potential to cause human health concerns. Thus, CVCWA requests that the prohibition be deleted.

⁷ Tentative Order, p. 8.

⁸ *Id.*, Fact Sheet, section II.A.

⁹ Tentative Order, p. 14.

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At the very least, Galt and others should be given appropriate time to conduct a study to determine if storm water runoff in such instances is problematic. Accordingly, CVCWA supports the proposed timelines for a study as requested by the City of Galt.

CVCWA supports the time allowance granted to the City to accomplish the necessary improvements to the Facility to collect and channel storm water runoff. However, the time schedule only applies to discharge prohibition for storm water runoff in Provision IV.C.3.d.viii. Discharge Prohibition III.C prohibits any discharge of waste to surface water or surface water drainage course and is not similarly qualified. CVCWA requests that the Regional Board provide further explanation or qualification to ensure that the City is not in violation of a discharge prohibition because of storm water runoff from the agricultural reuse fields. This type of discharge would be exempt from the Clean Water Act, and the Tentative Order should include the necessary qualifications to protect the City from regulatory uncertainty.

We appreciate your consideration of these comments. If you have any questions or if CVCWA can be of further assistance, please contact me at (530) 268-1338 or eofficer@cvcwa.org.

Sincerely,



Debbie Webster,
Executive Officer

cc (via email): Pamela Creedon, Central Valley Regional Water Quality Control Board
(pcreedon@waterboards.ca.gov)