



CVCWA

Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies

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Via Electronic Mail Only

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Central Valley Region
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RE: Tentative Waste Discharge Requirements for the Chester Public Utility District, Chester Wastewater Treatment Plant, Plumas County

Dear Mr. Palmer:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to comment on the tentative Waste Discharge Requirements (WDRs) Order No. R5-2016-XXXX for the Chester Public Utility District (District) Chester Wastewater Treatment Plant (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 need for a separate cease and desist order, the groundwater characterization study, the groundwater limitations, the reference to “designated” waste, the collection system language, and the receiving water limitation for salinity.

I. Compliance Schedule and Cease and Desist Order

The Tentative Order appropriately includes a compliance schedule and interim effluent limitations for ammonia and total coliform, allowing the District until August 13, 2019, to achieve compliance with the final effluent limitations for these constituents.¹ Given that the tentative National Pollutant Discharge Elimination System (NPDES) permit contains a compliance schedule, it appears to be unnecessary for the Central Valley Regional Water Quality Control Board (Regional Board) to adopt a separate cease and desist order to protect the District from liability for exceedances of the final limits for ammonia and total coliform.

II. Groundwater Characterization Study

The Tentative Order proposes to require the District to complete a Groundwater Monitoring Network Verification and Groundwater Quality Characterization Study within 30 months of the Order's adoption, but does not adequately explain the justification for this study.² Groundwater characterization studies are very expensive, and the District is a small discharger with very low salinity levels. Further, the discharge to land occurs when the District sends treated effluent to the wetland ponds. The underlying groundwater is likely more influenced by the hydrology of nearby Lake Almanor and marshes, rather than the wetland ponds. Separate monitoring requirements apply when the wetland ponds are being used³ in addition to the groundwater monitoring wells at monitoring locations RGW-001, RGW-002, and RGW-003.⁴ An additional study verifying the newly installed wells is unnecessary for this discharge and should be deleted. At a minimum, the study should be reduced in scope, and additional explanation should be added to the Fact Sheet to justify this expensive task.

III. Groundwater Limitations

The Tentative Order includes numeric groundwater limitations for ammonia (as NH_4^+), electrical conductivity (EC), nitrate (as N), nitrite (as N), total coliform organisms, and total dissolved solids (TDS).⁵ The limitations for nitrate, nitrite, and total coliform appear to be based on water quality objective contained in the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins* (Basin Plan). For example, the Basin Plan states that total coliform organisms in groundwater designated for municipal supply (MUN) shall not exceed 2.2 most probable number (MPN)/ 100 millilitres (mL) over any seven-day period, and that groundwater designated for MUN shall not contain chemical constituents in excess of maximum contaminant

¹ Tentative Order, pp. 5-6, 20.

² See *id.*, pp. 14, F-48.

³ *Id.*, pp. E-5 to E-6 (Table E-4), p. E-13 (Table E-9).

⁴ *Id.*, p. 11 (Table E-7).

⁵ *Id.*, p. 8.

levels (MCLs).⁶ However, the groundwater limits included in the Tentative Order for ammonia, EC, and TDS are based on improper interpretations of narrative objectives in the Basin Plan.

For ammonia, the Tentative Order states that the numeric level developed in the Amoores and Hautala study is appropriate to apply and interpret the narrative taste and odor objective.⁷ This study concerns industrial chemical discharges and is not applicable to wastewater discharges by Publicly Owned Treatment Works (POTWs). Similarly, the proposed groundwater limits for EC and TDS are derived from the Ayers and Westcott Report (United Nations (UN) Report) and used to protect the agricultural beneficial use.⁸

The UN Report was at issue in State Water Resources Control Board (State Board) Order WQO 2004-0010.⁹ In that order, the State Board determined that the UN Report's salinity value of 700 micromhos per centimeter ($\mu\text{mhos/cm}$) for EC "cannot be interpreted as an absolute value" and adopted into the City of Woodland's permit as an effluent limitation.¹⁰ "Rather, the Regional Board must determine whether site-specific conditions applicable to Woodland's discharge allow some relaxation in this value."¹¹ The State Board explained that the preface to the UN Report makes clear that the true suitability of a water body depends on the specific conditions of the use and on the management capability of the user. The State Board further explained that there are a variety of options available for managing salinity. The State Board concluded that the Regional Board needed to consider site-specific conditions to determine the appropriate effluent limitation, in lieu of adopting the agricultural water quality goal.¹² Here, the site-specific conditions do not suggest that numeric limits based on the UN Report are necessary to protect an agricultural beneficial use. The discharge has relatively low salinity levels,¹³ and despite the conclusory statements in the Fact Sheet, the discharge is not likely to degrade groundwater quality. Further, there is nothing in the Fact Sheet indicating that there are substantial agricultural uses near the Facility.

CVCWA requests that the Regional Board delete the numeric groundwater limits listed in Table 6 of the Tentative Order and the corresponding language in the Fact Sheet, and replace the

⁶ Basin Plan, p. III-10.00.

⁷ Tentative Order, p. F-43.

⁸ *Id.*, pp. F-43 to F-44.

⁹ State Board Order WQO 2004-0010, *In the Matter of the Own Motion Review of City of Woodland Waste Discharge Requirements Order No. R5-2003-0031 [NPDES No. CA0077950] and Cease and Desist Order No. R5-2003-0032* (Sept. 2, 2008).

¹⁰ *Id.*, p. 7.

¹¹ State Board Order WQO 2004-0010, p. 7.

¹² *Id.*, p. 8.

¹³ The Fact Sheet states that the discharge has an average TDS concentration of 154 milligrams per liter (mg/L) and an annual average EC concentration of 229 $\mu\text{mhos/cm}$, levels which are well below the Secondary MCLs. (Tentative Order, p. F-44.)

table with limitations based on the provisions in the Basin Plan. CVCWA suggests the following language to express the groundwater limitations, based on recently adopted orders:¹⁴

Release of waste constituents from any portion of the facility shall not cause groundwater to:

1. Contain constituents in concentrations that exceed either the Primary or Secondary MCLs established in Title 22 of the California Code of Regulations, or natural background water quality, whichever is greater;
2. Contain total coliform organisms over any 7-day period equaling or exceeding 2.2 MPN/100 mL; or
3. Contain taste or odor-producing constituents, toxic substances, or any other constituents in concentrations that cause nuisance or adversely affect beneficial uses.

This language is more appropriate for the District's discharge. It implements the Basin Plan objectives, and allows the District to evaluate data from the newly installed monitoring wells and determine background water quality before setting specific numeric limits to interpret narrative water quality objectives.

IV. Reference to "Designated" Waste

The Tentative Order includes an operating specification for the Treatment Ponds that states, "[d]ischarge of waste classified as 'hazardous' as defined in section 2521(a) of Title 23, California Code of Regulations (CCR), or 'designated,' as defined in section 13173 of the [California Water Code], to the treatment ponds is prohibited."¹⁵ The definition of designated waste in the Water Code provides:

Nonhazardous waste that consists of, or contains pollutants that, under ambient environmental conditions at a waste management unit, could be released in concentrations exceeding applicable water quality objectives or that could reasonably be expected to affect beneficial uses of the waters of the state as contained in the appropriate state water quality control plan.¹⁶

In other words, the operating specification, which in fact acts as a discharge prohibition, prohibits the discharge of waste for treatment in the Facility's treatment ponds that would

¹⁴ See, e.g., Regional Board Order R5-2015-0108 (Woodland-Davis Clean Water Facility Regional Water Treatment Facility), p. 16; Regional Board Order R5-2015-0053 (Delhi County Water District Wastewater Treatment Facility), p. 16.

¹⁵ Tentative Order, p. 14.

¹⁶ Wat. Code, § 13173(b).

exceed applicable water quality objectives. Such a prohibition is duplicative of the groundwater limitations and creates unnecessary liability for the District.

Provision VI.C.4.a.i of the Tentative Order prohibits the release, discharge, or placement of waste constituents that causes groundwater to exceed the groundwater limitations in the order. In addition, the actual groundwater limitations in Section V.B also protect against any discharges from the treatment ponds that would exceed water quality objectives. By including the reference to “designated” waste in Provision VI.C.4.a.xvii, the Regional Board has created another repetitive permit provision. The District could be held liable for the violation of the “designated” waste discharge prohibition in addition to the violation of the groundwater limitations. Creating additional liability for POTWs is not good public policy. Accordingly, CVCWA recommends that the Tentative Order be revised to eliminate the reference to designated waste.

V. Collection System Language

The Tentative Order states that “[r]egardless of the coverage obtained under Order No. 2006-0003, the Discharger’s collection system is part of the treatment system that is subject to this Order,” and as such, the District “must properly operate and maintain its collection system . . . and mitigate any discharge from the collection system in violation of this Order . . .”¹⁷ The State Board regulates sanitary sewer systems greater than one mile in length that collect and convey untreated or partially treated wastewater to treatment facilities under the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Order No. 2006-0003-DWQ (State Board Order No. 2006-0003-DWQ). State Board Order No. 2006-0003-DWQ requires enrollees to develop sewer system management plans and other measures to prevent sanitary sewer overflows.¹⁸ The Tentative Order acknowledges that the District has applied and been approved for coverage under State Board Order No. 2006-0003-DWQ.¹⁹

Sanitary sewer systems pose unique challenges for water quality regulation, and the State Board has adequately addressed these challenges in State Board Order No. 2006-0003-DWQ, with which the District must comply. The Regional Board does not need to regulate collection systems further in the District’s NPDES permit.²⁰ Not only does the inclusion of the collection systems as part of the NPDES permit represent duplicative regulation, it

¹⁷ Tentative Order, p. 22.

¹⁸ State Board Order No. 2006-0003-DWQ, pp. 2-3, 10-15.

¹⁹ Tentative Order, p. 19.

²⁰ The Regional Board has not regulated collection systems in other NPDES permits. For instance, in Order R5-2015-0123 (NPDES No. CA0081434) for the City of Galt Wastewater Treatment Plant and Reclamation Facility (Galt Order), the Regional Board, in paragraph VI.C.5.a, provided that “[t]he Discharger shall be subject to the requirements of Order No. 2006-0003-DWQ and any future revisions thereto,” but did not subject the City of Galt’s collection system to the discharge prohibitions in the NPDES permit.

subjects the District to possible third party lawsuits because any sanitary sewer overflow will violate the NPDES permit's Discharge Prohibitions.

To the extent that federal regulations require POTWs to properly operate and maintain all facilities and systems of collection, such requirements are adequately contained in the Standard Provisions.²¹ With respect to other provisions, such as Discharge Prohibitions and specific collection system requirements in the Tentative Order, the inclusion of collection systems in the manner as provided in the Tentative Order may subject the District to duplicative liability for sanitary sewer overflows that may reach waters of the United States. CVCWA understands that such discharges are not authorized and constitute a violation of the Clean Water Act. However, by also having collection systems subject to the Discharge Prohibitions in the Tentative Order, such discharges become an NPDES permit violation, as well as an unauthorized discharge.

CVCWA asks that the Regional Board delete the finding on pages 19-20 of the Tentative Order, stating that the collection system is subject to State Board Order No. 2006-0003-DWQ. Instead, CVCWA recommends adopting the following language, consistent with the WDRs recently adopted in the Galt Order:

- e. Collection System. On 2 May 2006, the State Water Board adopted State Water Board Order No. 2006-0003-DWQ, Statewide General WDRs for Sanitary Sewer Systems. The Discharger shall be subject to the requirements of Order No. 2006-0003-DWQ and any future revisions thereto. Order No. 2006-0003-DWQ requires that all public agencies that currently own or operate sanitary sewer systems apply for coverage under the general WDR's. The Discharger has applied for and has been approved for coverage under Order 2006-0003-DWQ for operation of its wastewater collection system.

~~Regardless of the coverage obtained under Order No. 2006-0003, the Discharger's collection system is part of the treatment system that is subject to this Order. As such, pursuant to federal regulations, the Discharger must properly operate and maintain its collection system [40 CFR 122.41(e)], report any non-compliance [40 CFR 122.41(l)(6) and (7)], and mitigate any discharge from the collection system in violation of this Order [40 CFR 122.41(d)].~~

To explain further the distinction intended by using the term "Facility" in the Discharge Prohibition, the following discussion should be added to section IV.A.1 of the Fact Sheet at page F-12:

²¹ See Tentative Order, Attachment D, Standard Provision I.D, p. D-1 ["The Discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Discharger to achieve compliance with the conditions of this Order."].

1. Prohibition III.A. (No discharge or application of waste other than that described in this Order). This prohibition is based on Water Code section 13260 that requires filing of a ROWD before discharges can occur. This prohibition applies specifically to discharges from the wastewater treatment facility and does not apply to the collection system. The collection system is governed by State Water Board Order No. 2006-0003-DWQ and any future revisions thereto. The Discharger submitted a ROWD for the discharges described in this Order; therefore, discharges not described in this Order are prohibited.

This is a reasonable approach that avoids duplicative regulation and unintended lawsuits, and CVCWA respectfully requests that the Regional Board revise the Tentative Order accordingly.

VI. Receiving Water Limitation for Salinity

Receiving water limitation V.A.11 states: "Effluent electrical conductivity shall not exceed 900 μ mhos/cm as a calendar annual average."²² This limitation is not based on the water quality objectives in the Basin Plan.²³ The limit appears to be added to the surface water limitations in error as it refers to "effluent electrical conductivity." For these reasons, CVCWA requests that receiving water limitation V.A.11 be deleted from the Tentative Order.

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)

²² Tentative Order, p. 7.

²³ Basin Plan, p. III-6.02 & Table III-3.