Attachment A

Responses to Comments
for
Tentative Amendment Dated October 14, 2008

City of San Buenaventura
Ventura Water Reclamation Facility
Tentative Copper Water Effects Ratio Amendment

(The following Table summarizes the comments received from interested parties with regard to the above-mentioned facilities' Tentative Amendment.)

No.	Comment	Agree	Disagree	Response to Comment	Action Taken
Letter from Heal the Bay Dated on November 13, 2008					
1.	**<u>The Regional Board should require more data before the WER is considered for revision</u>** Increasing the WER value is premature at this time. The amendment itself acknowledges the fact that more monitoring is necessary before an appropriate WER value is developed. "This final WER is based upon the geometric mean of sample events in March 2004 and January 2005. These sample events generally had the lowest EC50 values, indicating that copper has the most toxicity under these conditions, leading staff to conclude on the basis of available study data that these constitute the critical condition in the Estuary. ***Additional data points, however, will be necessary in order to confirm this assumption***." (Amendment at 2, emphasis added). Why would the Regional Board modify a permit to include a WER value, when there are obviously still concerns about its appropriateness? This approach is not consistent with protecting beneficial uses. Thus, we urge the Regional Board to revert back to a default WER value of 1.0. At a minimum, the 1.58 WER value adopted in the last permit should not be modified until sufficient data are collected.		X	The number of data points and approach to calculating the proposed WER are consistent with US EPA's recommended guidance as set forth in its 1994 Interim Guidance for developing WERs. Furthermore, while there were a total of 4 sample events conducted during the WER study, Regional Board staff has recommended using only the five data points during the wintertime, "berm open" condition, which generally had the lowest EC50 values, representing the conditions under which copper has the most toxicity. Therefore, the WER will be protective of aquatic life under these critical conditions as well as during other less critical periods. Furthermore, additional confirmatory monitoring is not an indication that the WER is inappropriate. Additional confirmatory monitoring was a key component of the other copper WER that has been adopted by the Regional Board for Calleguas Creek (Regional Board Resolution No. 2006-022) and is a prudent approach to ensure that the WER continues to protect aquatic life, and that effluent and waterbody conditions that would affect the WER have not changed.	None necessary

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2	**The Regional Board must ensure that the critical conditions are captured** The Tentative Amendment indicates that the proposed WER value of 2.08 is calculated "as the geometric mean of data points 3.81, 1.84, 1.77, 1.77, and 1.77, collected during critical conditions." How did the Regional Board determine that "wintertime with the berm open" is the critical condition? Further, with only two sampling events how do we know that critical conditions during this period were in fact captured? In addition, was 2004/2005 an appropriate year to take samples? It is unclear why the data provided at the March 6, 2008 hearing was deemed insufficient, yet it does not appear that any new data were collected. Regardless, the study design must account for variability in water quality and rainfall conditions on both a seasonal and annual basis. Ideally, four sampling events (2 wet and 2 dry) per year over five years are needed to develop a WER that accurately reflects site specific conditions. As we stated in our August 18, 2008 comments on the WER Policy, we recommend that the Regional Board complete a statistical evaluation of existing data from local water bodies on parameters which affect bioavailability. This evaluation should characterize variability in both wet and dry conditions and provide an analysis that demonstrates the minimum amount of data that would typically be necessary to characterize the distribution of these parameters.		X	As discussed in no. 1, the samples taken during the wintertime "berm open" condition generally had the lowest EC50 values, indicating that copper had the greatest toxicity under these conditions. Therefore, Regional Board staff selected the five data points from this period as representative of the critical conditions in the estuary, pertaining to copper toxicity. Additionally, the number of samples collected, the number of data points used in the final WER calculation, and the approach of using the geometric mean are all consistent with the US EPA's recommended guidance (US EPA, 1994). Confirmatory monitoring will provide data to ensure that waterbody conditions have not changed from the 2004/2005 study period to such an extent as to affect the final WER.	None necessary
3.	**The Regional Board should use the most conservative WER value calculated during critical conditions** The Regional Board calculates the 2.08 WER by taking the geometric mean of data points 3.81, 1.84, 1.77, 1.77, and 1.77. Selecting the geometric mean as the WER value is inappropriate. Four of the five data points are below the selected valuate of 2.08. Although we believe that more data is necessary, at a minimum, the lowest calculated WER should be used in order to be protective. By using the geomean, aquatic life will not be protected during the most critical conditions.		X	Use of the geometric mean of the selected sample WERs is appropriate and is, in fact, what is recommended by US EPA in its 1994 guidance document on deriving WERs for metals (US EPA, 1994).	None necessary

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4.	**The City should perform continuous monitoring** A monitoring regime such as the one described on the Tentative Amendments (Section 2, A-E on page 4) should be continued in perpetuity to ensure that whatever WER that is adopted in the permit continues to be appropriate, as water quality conditions can change drastically over a given timeframe.			In addition to the confirmatory monitoring, Regional Board staff will recommend continued WET testing as well as in-stream toxicity testing (A-2, B-3, and one of C-1, C-2, and C-3), to ensure that any changes in effluent and waterbody conditions that may be affecting the WER are identified early. If toxicity is detected and found to be associated with copper, the Regional Board may reopen the permit at any time to amend the WER value (See revised Reopener Provision Finding No.3 on Page 5 of the tentative Amendment).	
5.	**Conclusion** The proposed WER of 2.08 changes the effluent limit from a 4.2 µg/L monthly average and 8.8 µg/L daily maximum to a 6.7 µg/L monthly average and 14 µg/L daily maximum. In other words, 60% more copper per month will be allowed to enter the waterbody. It is imperative that the original, more conservative copper WER be applied to the Ventura Water Reclamation Facility, as excessive copper will cause toxicity to the aquatic organisms of the Santa Clara River Estuary and the data collected appears insufficient to develop an appropriate WER. The Santa Clara River Estuary is part of a natural preserve and is an important ecosystem. As such, it should not continue to be altered by wastewater effluent discharges.			Codified in the NPDES regulations at 40 CFR 122.44(l), Section 402(o)(2) provided that the establishment of less stringent limits may be allowed such that "New information is available that was not available at the time of permit issuance which would have justified a less stringent effluent limitations." Based upon the new information, Regional Board staff proposed the revised WER for copper. In addition, regardless of the proposed WER of 2.08, there is no any increase in copper over that which is being discharged by the City of Ventura currently. Therefore, there will be no change from current conditions in terms of the amount of copper discharged into the Santa Clara River Estuary. The data are sufficient to develop an appropriate WER and are consistent with US EPA guidance on the minimum number of samples necessary to calculate a final WER, as stated earlier. Furthermore, the proposed WER value, as calculated, will be protective of aquatic life in the estuary. The additional confirmatory monitoring will provide a safeguard to identify any changes in effluent or waterbody conditions that may affect the WER. If such changes are identified, the Regional Board may reopen the permit at any time to modify the WER if necessary.	None necessary
Letter from Ms. Teresa Jordan Dated on October 15, 2008					
1.	Ms. Jordan is opposed to changing the copper WER value from			Ms. Jordan did not provide any basis to support her position.	None

No.	Comment	Agree	Disagree	Response to Comment	Action Taken
	1.58 to 2.08.			Regional Board staff are unable to respond. However, She may have similar oppositions as the Heal the Bay did. Please see Staff's response to the Heal the Bay above.	necessary
2.	The tile of "Ventura County Department of Public Works, Flood Control and Drainage" should be corrected with "Ventura County Public Works Agency".	X		In fact, "Ventura County Department of Public Works, Flood Control and Drainage" mixes two entities. Regional Board staff agree to correct "Ventura County Department of Public Works, Flood Control and Drainage" as "Ventura County Public Works Agency", which prides itself on its ability to respond effectively to life-threatening emergencies and unforeseen natural disasters such as earthquakes or floods. However, "flood control and drainage" is mainly charged by Ventura County Watershed Protection District (then known as the Ventura County Flood Control District), which was formed on September 12, 1944, when the California State Legislature approved the Ventura County Flood Control Act. The District was formed, in part, to provide for the control and conservation of flood and storm waters and for the protection of watercourses, watersheds, public highways, life and property in the district from damage or destruction from these waters. On January 1, 2003, the name was changed to the Ventura County Watershed Protection District to reflect changes in community values, regulatory requirements, and funding opportunities.	Changes have been made.