

**Regional Water Quality Control Board
Central Valley Region
Board Meeting – 7/8 December 2017**

**Response to Written Comments on
Tentative Order Amending Water Code Section 13301
Cease and Desist Order No. R5-2015-0093**

At a public hearing scheduled for 7/8 December 2017, the Regional Water Quality Control Board, Central Valley Region, (Central Valley Water Board) will consider adoption of a tentative Order to amend Order No. R5-2015-0093, for Valley Water Management Company, Race Track Hill Facility, and Fee 34 Facility, Edison, Kern County, Water Code Section 13301 Order To Comply With Resolution 58-349 and Orders 92-110 and 92-11037. Order No. R5-2015-0093 was issued to Valley Water Management Company (Valley Water) to provide specific requirements and a timeline to come into compliance with waste discharge requirements issued by the Central Valley Water Board or cease the discharge of produced wastewater to surface impoundments or land at the Race Track Hill Facility. This document contains responses to written comments on the tentative Order, which was circulated for public comment on 20 October 2017. Written comments from interested parties were required by the public notice to be received by the Central Valley Water Board no later than 5:00 PM on 20 November 2017 in order to receive full consideration. Comment letters were received by the deadline from:

1. Valley Water Management Company, 17 November 2017;
2. Clean Water Action et al., 20 November 2017;
3. Clean Water Action et al., 20 November 2017; and
4. Center for Biological Diversity, 20 November 2017.

Written comments from the above interested parties are summarized in the appropriate sections below, followed by responses from Central Valley Water Board staff. Based on the comments, Central Valley Water Board staff has made some minor changes to the proposed tentative Order. Where specific changes are presented below, additions are underlined and deletions are in strikeout. The last section of the response to written comments includes Central Valley Water Board staff revisions/corrections to the tentative Order.

VALLEY WATER MANAGEMENT COMPANY

On 17 November 2017, Central Valley Water Board staff received a letter (Letter) from Valley Water in support of the tentative Order. The Letter states that Valley Water would like the tentative Order adopted as it is written. The following is paraphrased from the letter:

The letter states Valley Water is actively taking steps toward compliance. Since Order No. R5-2015-0093 was adopted in 2015, Valley Water has conducted two pilot projects testing cutting edge technologies designed to treat produced wastewater for beneficial uses. Valley Water is an active member of the Central Valley Salinity Coalition (CV-SALTS). Valley Water has drilled sixteen wells in order to provide the Central Valley Water Board with reports and groundwater data. Valley Water has confirmed that no source water wells have been impacted by the discharge. If the tentative Order is adopted, the additional time will allow Valley Water and its members time to finish alternative disposal projects, and ensure the economic viability of several small oil operators. Valley Water commits to continue monitoring and reporting during the extended time if the tentative Order is adopted.

RESPONSE: No changes were made in response to this comment.

CLEAN WATER ACTION

The Central Valley Water Board received two different comment letters from Clean Water Action et al., that are dated 20 November 2017. Both comment letters are summarized in this section.

COMMENT No. 1: Clean Water Action states that the deadline in Order No. R5-2015-0093, to cease the discharge of produced wastewater to the Race Track Hill Facility, should not be changed from 1 January 2018 to 1 July 2019. The original deadline was inadequate and deviated from Central Valley Water Board staff's (Staff's) recommendation to immediately cease the discharge of produced wastewater to the Race Track Hill Facility. Clean Water Action requests that the tentative Order with the deadline extension not be adopted.

RESPONSE: Order No. R5-2015-0093 was adopted to characterize the potential impacts to water quality and provide a timeline to cease the discharge of produced wastewater to the Race Track Hill Facility. Valley Water owns and operates the Race Track Hill Facility, which disposes of produced wastewater from small operators in the Edison Oil Field. The proposed deadline extension in the tentative Order provides an opportunity for six small operators in the Edison Oil Field to continue discharging produced wastewater to Valley Water while developing and implementing alternative disposal methods. The discharge is significantly reduced and will eventually be eliminated under these conditions. The site is not expected to cause significantly greater degradation of water quality during the extension period.

The six operators that are dependent on the Race Track Hill Facility employ approximately 20 individuals and pay royalties to lease owners. The shut-down of the Race Track Hill Facility is expected to jeopardize the employment of these individuals and the viability of these companies. Six operators have formed Edison Beneficial Reuse. Edison Beneficial Reuse has indicated it needs additional time to acquire ownership of the UIC wells and rework them to the proper depths. Central Valley Water Board staff (Staff) has reviewed the request for a deadline extension of 18 months and believes this is a reasonable amount of time to develop and implement the proposed alternative disposal methods of produced wastewater.

No changes were made in response to this comment.

COMMENT No. 2: Clean Water Action states that Order No. R5-2015-0093 is issued to Valley Water. It is the responsibility of Valley Water to comply with this order, not Edison Beneficial Reuse. It is not clear why Edison Beneficial Reuse is included in the tentative Order. Order No. R5-2015-0093 should not be amended for third parties that are not identified as a discharger.

RESPONSE: Edison Beneficial Reuse is identified in the tentative Order in the findings section, not as the Discharger or responsible party for the Race Track Hill Facility. Edison Beneficial Reuse is an interested party that currently relies on the Race Track Hill Facility for the viability of their six members. Edison Beneficial Reuse is included in the findings to provide background regarding the request by Valley Water and Edison Beneficial Reuse for a deadline extension of 18 months.

No changes were made in response to this comment.

COMMENT No. 3: Clean Water Action states that there is no documentation that Edison Beneficial Reuse has been working to develop and implement alternative disposal methods. In addition, the tentative Order does not justify why the previous deadline of 1 January 2018 (approximately two years after the adoption of the order) was not adequate to develop and implement alternative disposal methods.

RESPONSE: In response to this comment, Staff added Finding 38 to Attachment A of the tentative Order as posted with the Agenda materials for this item. Staff is proposing the Board consider Late Revisions so that Finding 38 will read as follows:

38. On 16 October 2017, Edison Beneficial Reuse sent a letter, via electronic mail, to the Central Valley Water Board that states neither of the alternative disposal methods discussed in Finding 36 of this Order could be implemented before 1 January 2018.

Also, see the response to Comment No. 1.

COMMENT No. 4: Clean Water Action states that there does not appear to be sufficient evidence that Valley Water and Edison Beneficial Reuse have fully evaluated the proposed alternative disposal methods. Clean Water Action requests evidence that these alternative disposal methods have been fully evaluated by the Central Valley Water Board, Valley Water, and Edison Beneficial Reuse.

RESPONSE: The Central Valley Water Board has not received a Report of Waste Discharge for the proposed reuse of produced wastewater for irrigation by Edison Beneficial Reuse. During a meeting on 9 October 2017, Valley Water, Edison Beneficial Reuse, and the Central Valley Water Board discussed the progress of the proposed projects. Upon receiving a Report of Waste Discharge, the Central Valley Water Board will conduct a full review of the proposed project and will make all documents available to the public. If the project is deemed appropriate for issuance of waste discharge requirements, the tentative Order will be provided to members of the public for a 30-day comment period prior to going before the Board for consideration of adoption.

Edison Beneficial Reuse is in the process of obtaining four UIC wells regulated by the Division of Oil, Gas, and Geothermal Resources (DOGGR). Once acquired and permitted, these wells will need to be reworked into deeper formations prior to use. Central Valley Water Board staff believes an additional 18 months to accomplish these tasks is reasonable.

No changes were made in response to this comment.

COMMENT No. 5: Clean Water Action states that the tentative Order needs to identify the “individual” that submitted an UIC Application to DOGGR. An unrelated individual should not absolve Valley Water of their responsibilities to comply with Order No. R5-2015-0093. In addition, there does not appear to be documentation that shows disagreements regarding the ownership of the UIC wells or complications with the project assignment form. Clean Water Action cites an email from DOGGR staff stating that the Project Approval Letter was sent to Verjill Oil Company and the project assignment forms have been approved. According to DOGGR, Atlantic Oil Company has not re-submitted the Notice of Intent to drill forms. The claims that DOGGR is delaying the UIC wells process are false. Also, the authority of the

Central Valley Water Board to enforce Order No. R5-2015-0093 should not be reliant on the permitting activity of another agency.

RESPONSE: During the 9 October 2017 meeting, Atlantic Oil Company and Edison Beneficial Reuse stated that they are working with DOGGR regarding four UIC wells acquired from Verjill Oil Company. Additional work is required to recomple and deepen the wells and apply for a commercial waste disposal permit (if appropriate). The proposed deadline extension will provide Atlantic Oil Company and Edison Beneficial Reuse an appropriate amount of time to complete the UIC wells and implement alternative disposal methods of produced wastewater.

Staff has proposed the following late revisions to Finding 5 of the proposed Amending Order.

- a. Disposal Wells – In 2015, Verjill Oil Company ~~an individual unrelated to Valley Water Management Company or Edison Beneficial Reuse~~ submitted an Underground Injection Control (UIC) Application to the Division of Oil, Gas, and Geothermal Resources (DOGGR) for four UIC wells adjacent to the Fee 34 facility. In July 2017, DOGGR issued a preliminary UIC Project Approval Letter for the discharge of produced wastewater to the Vedder Formation. On 31 July 2017, Verjill Oil Company transferred ownership of the UIC wells to Atlantic Oil Company. As of October 2017, DOGGR is reviewing the Assignment documents that transfer the UIC Project wells from the original applicant to Edison Beneficial Reuse. Due to delays from DOGGR, and complications with the ownership agreements Edison Beneficial Reuse has not been able to initiate the UIC Project for the disposal of produced wastewater. Atlantic Oil Company is in the process of transferring ownership of the UIC wells to Edison Beneficial Reuse. Edison Beneficial Reuse indicated it needs more time to finish the transfer of ownership and to prepare the UIC wells for injection into the Vedder Formation.
- b. Beneficial Reuse – Edison Beneficial Reuse has established proposed a blended reuse project that would use treated produced wastewater from Valley Water Management Company's Fee 34 facility during nine months of the year. . .

COMMENT No. 6: Clean Water Action states that the Central Valley Water needs to disclose and provide adequate time for the public to comment on the proposed project by Edison Beneficial Reuse for the reuse of produced wastewater for irrigation.

RESPONSE: See response to Comment No. 4.

COMMENT No. 7: Clean Water Action states that there is not sufficient evidence that ceasing the discharge of produced wastewater to the Race Track Hill Facility would effectively end six small businesses that comprise Edison Beneficial Reuse. There needs to be an analysis that all other alternative disposal methods have been explored and documentation of a cost benefit analysis for other potential disposal methods. In addition, there needs to be a cost benefit analysis for the continued discharge of produced wastewater at the Race Track Hill and the potential impacts to water supply wells.

RESPONSE: The six businesses that comprise the Edison Beneficial Reuse group are oil producing companies that discharge their produced wastewater to the Race Track Hill Facility for disposal. Ceasing the discharge of produced wastewater to the Race Track Hill Facility

would likely result in the production of oil to cease. Central Valley Water Board Staff believes that these companies would be in danger of going out of business if the deadline is not extended. In addition, there has been a significant investment by Edison Beneficial Reuse to implement the two proposed disposal methods. In a letter dated 16 October 2017, Edison Beneficial Reuse states that their efforts represent an investment of approximately two million dollars in permitting, anti-degradation modeling, and construction over an eighteen month schedule.

The impacts to groundwater in the area are the result of discharging produced wastewater to the Race Track Hill Facility since 1958. The reduced discharge of produced wastewater to the Race Track Hill facility is not expected to result in significantly greater degradation of water quality. To verify this assertion, Valley Water will continue to collect groundwater data and report this information to the Central Valley Water Board for review. The continued discharge of produced wastewater to the Race Track Hill Facility at a significantly reduced rate is not likely to further degrade water quality and will preserve the employment of approximately 20 individuals and royalties to lease owners.

No changes were made in response to this comment.

COMMENT No. 8: Clean Water Action states that the tentative Order includes the reduced discharge as a finding, not a requirement. Clean Water Action states that the Central Valley Water Board staff asserts that the reduced disposal rate will not degrade water quality, but does not include this flowrate as a requirement in the tentative Order. Clean Water Action requests that the tentative Order include a requirements that identifies a maximum flowrate of produced wastewater discharged to the Race Track Hill Facility.

RESPONSE: Staff has prepared a flow limit to be considered by the Board. The new requirements is included in Late Revisions and reads as follows:

8. The monthly average daily discharge of produced wastewater to the Race Track Hill Facility shall not exceed 2,500 barrels. This shall be calculated by summing the daily flows for the month and dividing by the number of days in the calendar month.

COMMENT No. 9: Clean Water Action states that the tentative Order does not qualify for exemption of the California Environmental Quality Act (CEQA) on the basis that it does not significantly change the facility. Under Order No. R5-2015-0093, the discharge of produced wastewater would be transitioned to an irrigation water project or UIC injection. Both of these proposed projects constitute significant changes and should be evaluated for compliance with CEQA.

RESPONSE: The scope of the project for the purposes of CEQA is limited to amendment of Order No. R5-2015-0093, an enforcement order. Adoption of the proposed Amendment Order is exempt from CEQA because there are no significant changes expected to occur at the Race Track Hill Facility and because amendment of Order No. R5-2015-0093 is an action by a regulatory agency to enforce provisions of the Water Code, Division 7, that is exempt CEQA in accordance with California Code of Regulations, title 14, section 15321(a)(2)). Any additional projects that Valley Water or Edison Beneficial Reuse proposes in the future is outside the scope of the proposed Amendment Order and will undergo any needed CEQA analysis by the appropriate lead agency at that time.

Staff has proposed the following late revision to Finding 9 of the proposed Amending Order:

9. The action to amend Order No. R5-2015-0093 is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) because it involves no significant changes to the facility and does not expand the existing use (Cal. Code Regs. tit. 14, § 15301). The amendment of Order No. R5-2015-0093 is an action by a regulatory agency to enforce provisions of the Water Code, Division 7, and is thus exempt from the provisions the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) in accordance with California Code of Regulations, title 14, section 15321(a)(2).

CENTER FOR BIOLOGICAL DIVERSITY

COMMENT No. 1: The Center for Biological Diversity (CBD) states that Valley Water's use of the Facility has threatened to negatively impact water for years. Analytical results from wastewater samples taken in 2013 show that the discharge has exceeded limits set by Waste Discharge Requirements Order Number 58-349, which regulate the Race Track Hill Facility. The analytical results show that the discharge may increase salt and boron concentrations in Cottonwood Creek, Kern River, or underlying groundwater. The CBD argues that Valley Water will continue to discharge until the Central Valley Water Board enforces the Order No. R5-2015-0093.

RESPONSE: As outlined in Order No. R5-2015-0093, the Central Valley Water Board shares the concerns addressed in the comment. Order No. R5-2015-0093, issued pursuant to California Water Code (CWC) sections 13267 and 13301, orders Valley Water to complete a number of tasks under a time schedule. Those tasks include an investigation into impacts of the discharge to ground and surface water, conducting a water balance calculation, conducting work to close the ponds, and permanently ceasing the discharge. CWC 13263 et seq. gives the Board the authority to require tasks to be completed under a time schedule, which is subject to revision and Board's discretion. Since Order No. R5-2015-0093 was adopted, Valley Water has completed many of the required tasks and significantly reduced the discharge volume. Valley Water is requesting the deadline extension to find a reasonable disposal method for the remaining discharge volume. The Board is considering the proposed amendment. If the amendment is adopted, the discharge may continue for a short time, but will permanently cease.