



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901



David Hanson
Water Resource Control Engineer
California Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

DEC 08 2004

Dear Mr. Hanson:

The U.S. EPA appreciates the opportunity to comment on the Tentative Addendum No. 3 to Order No. 2001-08, NPDES No. CA0107611; Waste Discharge requirements for the South Orange County Wastewater Authority discharge to the Pacific Ocean through the Aliso Creek outfall, Orange County (ACOO). The U.S. EPA supports the adoption of Addendum #3, Finding No. 10; the clarification that each wastewater treatment facility must meet the technology-based effluent limitations for municipal dischargers, set forth in 40 CFR Part 133 for TSS, CBOD₅, and pH. Finding No. 10 would read, upon adoption, as follows:

"Technology-based effluent limitations for total suspended solids (TSS), 5-day carbonaceous biochemical oxygen demand (CBOD₅), and pH specified in 40 CFR Part 133 apply to each individual municipal sewage treatment facility discharging to the ACOO, preventing poorly performing facilities from circumventing technology-based secondary treatment standards (as set forth in 40 CFR Part 133) through dilution and preventing the discharge of toxic materials causing exceedance of the water quality objectives set forth in the California Ocean Plan. This is consistent with USEPA interpretation of 40 CFR Part 133 as it applies to multiple municipal wastewater treatment facilities sharing common outfalls and with other similar permits issued by other Regional Boards within California."

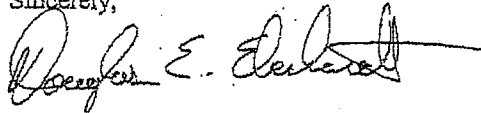
We understand that the discharger prefers the point of compliance be determined at the outfall, however we support the Regional Board's determination that compliance should be determined at the individual treatment plants. Secondary treatment is a technology-based standard and should be met after the treatment process. According to the Clean Water Act (CWA), all publicly owned treatment works (POTWs) must meet effluent limitations for secondary treatment (CWA 301 (1)(b)(1)(B), 33 U.S.C. 1311(b)(1)(B)).

Determining compliance with secondary treatment requirements only at the outfall is inappropriate because the outfall does not meet the definition of a POTW. A POTW is defined in 40 CFR 122.2 and 403.3 as "any systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey waste to a POTW

Treatment Plant." Because the ACOO does not convey waste to a treatment plant, the outfall is not included within the definition of a treatment plant. Thus, the effluent should be measured and compliance determined subsequent to secondary treatment at each treatment plant. Furthermore, technology-based requirements are to be met with treatment technology, not non-treatment such as flow augmentation (40 CFR 125.3 (f)) or dilution that could occur as various effluents mix in the outfall.

Thank you, again, for the opportunity to comment on the adoption of Addendum #3. Please contact Nancy Yoshikawa at (415) 972-3535, or Kim Driver at (415) 972-3539 if you have any questions.

Sincerely,



Douglas E. Eberhardt, Chief
CWA Standards and Permits Office