

**Regional Water Quality Control Board
Central Valley Region**

Board Meeting – 12/13/14 October 2011

**Response to Written Comments on
Tentative Waste Discharge Requirements and Time Schedule Order
for**

**City of Willows
Willows Wastewater Treatment Plant
Glenn County**

12 September 2011

At a public hearing scheduled for 12/13/14 October 2011, the Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) will consider adoption of tentative Waste Discharge Requirements (NPDES No. CA0078034) and a Time Schedule Order for the City of Willows Wastewater Treatment Plant. This document contains responses to comments received from interested parties in response to the Tentative Orders. Written comments from interested parties were required to be received by the Central Valley Water Board by 2 September 2011 in order to receive full consideration. Comments were received prior to the deadline from:

1. Senator Doug La Malfa and Assemblymember Jim Nielsen
2. Central Valley Clean Water Association
3. SouthWest Water Company (contract operator for the City of Willows)

Written comments from the above interested parties are summarized below, followed by the response of Central Valley Water Board staff.

**SENATOR DOUG LA MALFA AND ASSEMBLYMEMBER JIM NIELSEN
COMMENTS**

**SENATOR DOUG LA MALFA AND ASSEMBLYMEMBER JIM NIELSEN –
COMMENT #1 – Funding of Basin Plan Amendment:**

“At a minimum, we are requesting that the Board identify a source of funding to facilitate the study and implementation of the “Basin Plan Amendment,” to identify and exempt certain agricultural drains and canals from the Board’s definition of “municipal” waters.”

RESPONSE:

The Discharger has several funding sources that they can pursue to help facilitate the beneficial use study in support of a possible Basin Plan Amendment. As an example, the City of Vacaville received funding from the following sources for their Basin Plan Amendment process:

- City of Vacaville (Discharger);
- Local Irrigation District; and,
- A cooperative group of Publically Owned Treatment Works (POTW) that benefited from the Basin Plan amendment.

Other possible sources that might be used for funding a Basin Plan Amendment include:

- Funds secured by Elected officials (congressional representatives, legislative representative);
- United States Environmental Protection Agency (USEPA);
- California Department of Water Resources which has awarded over \$204 million dollars in Proposition 84 Grant funding for their Integrated Regional Water Management Implementation Grant Program;
- The State Water Resources Control Board has a Clean Water State Revolving Fund (CWSRF) that has financed “expanded use projects”;
- Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS), and
- Central Valley Water Board, although it has only very limited Basin Planning staff and funding.

**SENATOR DOUG LA MALFA AND ASSEMBLYMEMBER JIM NIELSEN –
COMMENT #2 – Municipal Beneficial Use Issue:**

“However, in light of the historical exemption provided the City of Willows, the traditional treatment and use of the water supplies in question, and the fiscal burden this re-designation will impose, we respectfully request that the Board re-evaluate and reverse the decision to impose the municipal water standard on the city and its residents. It is also worth noting that similar re-designations will also have negative impacts on the cities of Biggs, Colusa, Live Oak and Davis.”

RESPONSE:

Central Valley Water Board staff does not concur with reversing the decision to apply the Municipal Beneficial Use (MUN) to the receiving water that the City of Willows Wastewater Treatment Plant discharges into. Central Valley Water Board staff concurs that the receiving water may have been constructed or modified for the purpose of conveying agricultural drainage water, as specified in the criteria of Exception No. 2.b. of Resolution No. 88-63; however, the Central Valley Water Board staff does not concur that the MUN designation is inappropriate. The Central Valley Water Board does not have the authority to grant an exception to Resolution No. 88-63 through an individual NPDES Permit. As discussed in Finding II.H of the proposed NPDES Permit, the MUN beneficial use is applied to the receiving waters based on Resolution No. 88-63, which establishes that all waters (with certain exceptions) should be considered suitable or potentially suitable for municipal or domestic supply. The Central Valley Water Board implemented this policy by designating all unnamed waterbodies as having the MUN use. Basin Plan, page II-2.01, states that the Central Valley Water Board may de-

designate MUN based on the applicability of one or more of the Resolution No. 88-63 exceptions; however, as specified in page VI-9.00, de-designation of a MUN use must occur through a formal basin plan amendment process.

Moreover, this approach is consistent with subsequently adopted State Board orders. As recognized in the Vacaville Order, the Central Valley Water Board chose to implement 88-63 through a blanket MUN designation for all unidentified waterbodies in the region. Therefore, given that the Central Valley Water Board has made such a designation, the Central Valley Water Board would be required to go through another rulemaking process to change the designation. (WQ Order No. 2002-0015 at pp. 16-17.) See also In the Matter of the Petition of Curtis D. Quinones and Vapor Cleaners, Inc. WQ Order No. 2006-0010 at p. 2, noting that (1) beneficial uses are designated in the Basin Plan through a quasi-legislative process rather than on a case-by-case basis, as in a permit or cleanup order; (2) a Basin Plan amendment is the appropriate vehicle to designate or de-designate uses and that Resolution 88-63 is a tool in designations; and (3) it is not self-implementing.

Recently, (June 2011 Regional Board Meeting), the Central Valley Regional Board adopted an NPDES permit for the City of Live Oak, which included agricultural drainages, that stated, “until the Central Valley Water Board adopts a Basin Plan Amendment for an exception, and the State Water Board and Office of Administrative Law approve the Basin Plan Amendment, the receiving water is considered to be suitable or potentially suitable for municipal or domestic supply in accordance with State Water Board Resolution No. 88-63.” The proposed permit for the City of Willows Wastewater Treatment Plant is consistent with the permit adopted for the City of Live Oak’s Wastewater Treatment Plant permit, that also applies the MUN beneficial use to the receiving water.

CENTRAL VALLEY CLEAN WATER ASSOCIATION COMMENTS (CVCWA)

CVCWA – COMMENT #1 – Funding of Basin Plan Amendment:

“However, CVCWA must express its concerns with the Central Valley Water Board staff’s position that pursuit of a Basin Plan Amendment under these circumstances must be funded wholly, or at least largely in part, by the City of Willows. As chairperson Hart clearly stated at the June 10, 2011 Central Valley Water Board meeting, the Central Valley Water Board should accept responsibility for not excepting out agricultural drains when it adopted Resolution 88-63 into the Basin Plan. (“[i]n adopting Resolution 88-63 without excepting out these ag drains, we should accept responsibility for that.”) Accepting responsibility includes funding the studies and staff time necessary to pursue a Basin Plan Amendment for Central Valley Water Board consideration.

Accordingly, CVCWA recommends that the Central Valley Water Board direct staff to expeditiously pursue a Basin Plan Amendment if the Tentative Permit and TSO are adopted.”

RESPONSE:

The Central Valley Water Board can request funds to be shifted to a Basin Planning Amendment process, however, the funds (and Basin Planning staff) from the Central Valley Water Board are very limited. The Central Valley Water Board intends to use its available resources to help facilitate the process; however, full funding of the Basin Plan Amendment process is beyond the means of the Board at this time. Central Valley Water Board staff will work with the Dischargers on this Basin Planning process. See Response to Comments, Senator Doug La Malfa and Assemblymember Jim Nielsen – Comment #1 for additional information.

SOUTHWEST WATER COMPANY

SOUTHWEST WATER COMPANY (CONTRACT OPERATOR FOR THE CITY OF WILLOWS) – COMMENT #1 – Nitrate Interim Effluent Limits:

Our nitrate limits for the wastewater treatment plant are currently being revised and will need to be set at a reasonable level in order to meet the new tentative permit. The Draft Time Schedule Order utilized sample data up to March 2011 for calculating the interim effluent limit for Nitrate (as N). Recent Certified Laboratory reports indicate that 20 mg/L of Nitrate as N (NO₃ – N) during the summer of August 2011 is the highest result that have been received. Our concern is the limitation during the Time Schedule Order (TSO) based on the minimal data that has been collected so far. The calculation of an interim effluent limitation for Nitrate (as N) should include all of the recent data along with the historical data. We request that the interim effluent limitation for Nitrate (as N) be recalculated using the entire nitrate samples analysis collected to date.

RESPONSE:

Central Valley Water Board staff concurs with the request to include all of the most recent nitrate effluent data by proposing a revision to the tentative Time Schedule Order, in regards to the Interim Effluent Limits for Nitrate (as N). The interim effluent limit calculation for Nitrate (as N) will include the most recent data along with the previous data presented in the tentative Time Schedule Order.