



CVCWA

Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies

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December 16, 2011

Via Electronic Mail

Mr. Robin Merod
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

rmerod@waterboards.ca.gov

Re: Comments on the Tentative Permit for the City of Hughson Wastewater Treatment Facility

Dear Mr. Merod:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to submit these comments on the tentative waste discharge requirements (Tentative Order) for the City of Hughson Wastewater Treatment Facility (WWTF). CVCWA is a non-profit organization that represents more than 50 publicly owned treatment works throughout the Central Valley Region in regulatory matters affecting surface water discharge, land application, and water reuse. We approach these matters with a perspective to balance environmental and economic interests consistent with state and federal law.

We concur that the City's five disposal ponds are exempt from Title 27. However, we are concerned with the findings in the Tentative Order regarding the application of title 27 of the California Code of Regulations (Title 27). The Tentative Order finds that the City's disposal ponds are exempt from Title 27 pursuant to its sewage exemption (Title 27, § 20090(a)) and wastewater exemption (Title 27, § 20090(b).) The findings are unclear as to whether the unconditional or conditional sewage exemption is being applied. As explained in more detail below, we believe that the Tentative Order should find the disposal ponds exempt from Title 27 under the unconditional sewage exemption, rendering application of the conditional wastewater

exemption unnecessary.¹ We respectfully request that you modify the Tentative Order's findings accordingly.

We also request that you amend Provision 12 of the Tentative Order to state only: "The Discharger shall comply with the requirements of the Statewide General Waste Discharge Requirements (General WDRs) for Sanitary Sewer Systems (Water Quality Order No. 2006-0003), the Revised General WDRs Monitoring and Reporting Program (Water Quality Order No. 2008-0002-EXEC), and any subsequent revisions thereto." (Tentative Order at p. 20.) Compliance with the General WDRs is appropriate. However, the remainder of Provision 12 establishes requirements that are redundant or in addition to requirements in the General WDRs. These requirements in the Tentative Order are thus unnecessary and may serve as a source of confusion, frustrating regulatory compliance.

A. The Unconditional Sewage Exemption of Title 27 Applies to the City's Use of the WWTF Disposal Ponds

As provided in the Tentative Order's findings, Title 27 exempts activities associated with sewage as follows:

Sewage—Discharges of domestic sewage or treated effluent which are regulated by WDRs issued pursuant to Chapter 9, Division 3, Title 23 of this code, or for which WDRs have been waived, and which are consistent with applicable water quality objectives, and treatment or storage facilities associated with municipal wastewater treatment plants, provided that residual sludges or solid waste from wastewater treatment facilities shall be discharged only in accordance with the applicable SWRCB-promulgated provisions of this division. (Title 27, § 20090(a), emphasis added; Tentative Order at p. 14.)

The first prong of this provision exempts from Title 27 discharges of sewage and treated effluent as long as they are regulated by waste discharge requirements (or a waiver thereof) and comply with applicable water quality objectives. Thus, this sewage exemption is conditional upon compliance with the basin plan. However, the second prong constitutes an *unconditional* sewage exemption with regard to the basin plan. Specifically, the second prong exempts from Title 27 treatment or storage facilities associated with municipal wastewater treatment plants where the residual sludges or solid wastes are discharged in accordance with Title 27. Based on the regulation's plain language, demonstrating consistency with water quality objectives or the basin plan before permit issuance is not necessary for treatment and storage facilities to be exempt from Title 27.

The disposal ponds at the City's WWTF are "treatment or storage facilities associated with municipal wastewater treatment plants" and thus qualify for the unconditional sewage exemption. (Title 27, § 20090(a).) The WWTF treats and disposes of domestic wastewater from the City. (Tentative Order at p. 1.) The WWTF uses the ponds to store treated effluent until it is disposed of through percolation. (*Id.* at p. 3.) As the Tentative Order describes the treatment train, the WWTF does not store any other waste in the disposal ponds except authorized

¹ CVCWA does not contend that the City's disposal ponds would not meet the conditions for applying the wastewater exemption. Rather, there is no need to consider the conditional wastewater exemption given that the unconditional sewage exemption applies.

stormwater and maintains control over the disposal ponds at all times. (*Id.* at p. 3 and Information Sheet at p. 2.)

Interpreting “treatment or storage facilities associated with municipal wastewater treatment plants” of the unconditional sewage exemption to include the WWTF disposal ponds comports with the Water Code and federal regulations. Water Code section 13625(b)(1) defines “wastewater treatment plant” to include “[a]ny facility owned by a state, local, or federal agency and used in the treatment or reclamation of sewage or industrial wastes.” The federal regulations define “publicly owned treatment works” to include “any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature.” (40 C.F.R. § 403.3(q).) As explained in the Tentative Order, the City uses the disposal ponds to store treated effluent derived from municipal sewage. (Tentative Order at p. 3.)

For these reasons, as long as any residual sludge or solid waste from the WWTF is discharged consistent with Title 27, the unconditional sewage exemption applies. Put differently, the City has no duty to demonstrate compliance with the basin plan or water quality objectives as a condition of the disposal ponds being exempt from Title 27. (See Tentative Order at p. 14.)

B. Applying the Unconditional Sewage Exemption to Use of the WWTF Disposal Ponds Is Consistent With the Lodi Order²

Application of the unconditional sewage exemption to find that the City’s disposal ponds are exempt from Title 27 is consistent with the State Water Resources Control Board’s (State Water Board) Lodi Order adopted on July 7, 2009. In the Lodi Order, the State Water Board applied the wastewater exemption (Title 27, § 20090(b)), finding that the unconditional sewage exemption did not apply to the City of Lodi’s land disposal activities because: (1) the effluent had already undergone the treatment process before being sent to the ponds; and (2) some of the waste streams in the ponds did not undergo treatment (e.g., untreated industrial wastes, biosolids slurry) and therefore were not associated with the wastewater treatment plant. (Lodi Order at pp. 8, 9, 10.) These factors are not present with regard to the City’s disposal ponds.

As described in the Tentative Order, the City’s disposal ponds are a critical part of the process for treating and disposing of treated effluent at the WWTF. (See Tentative Order at pp. 2-3.) Moreover, no untreated waste other than authorized stormwater flows from the site enters the disposal ponds. (See *id.* at p. 3 and Information Sheet at p. 2.) Therefore, the State Water Board’s concerns expressed in the Lodi Order, with the ponds not being part of the WWTF’s treatment train and untreated waste (especially untreated industrial waste) entering the ponds, simply do not exist here. Applying the unconditional sewage exemption to the WWTF disposal ponds is thus consistent with the Lodi Order.

² *In the Matter of Own Motion Review of City of Lodi, Order WQ 2009-0005 (July 7, 2009) or “Lodi Order.”*

We appreciate your consideration of these comments and the revisions requested related to Title 27 and the General WDRs. If I can be of further assistance, please contact me at (530) 268-1338 or eoofficer@cvcwa.org.

Sincerely,



Debbie Webster,
Executive Officer

- c: Thomas Clark, City of Hughson (electronically)
Robert Gillette, Carollo Engineers (electronically)
Pamela Creedon, CVRWQCB (electronically)