



CVCWA

Central Valley Clean Water Association

Representing Over Sixty Wastewater Agencies

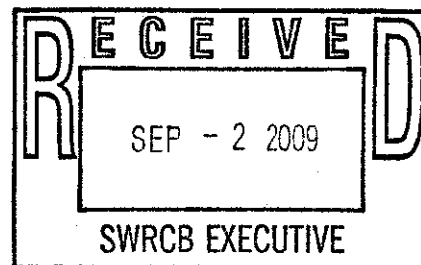
STEVE HOGG – CHAIR, FRESNO
JEFF WILLETT – SECRETARY, STOCKTON

MICHAEL RIDDELL – VICE CHAIR, CERES
ED CROUSE – TREASURER, RANCHO MURIETA CSD

September 2, 2009

Charles Hoppin, Chair, & Members
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812

Via Electronic Mail
c/o Jeanine Townsend, Clerk to the Board
commentletters@waterboards.ca.gov



SUBJECT: PROPOSED ORDER REGARDING PETITIONS OF THE CITY OF STOCKTON, et al. –SWRCB OCC File Nos. A-1971, A-1971(a) and A-1971(b)

Dear Chairman Hoppin and Members of the State Water Board:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to provide comments regarding the proposed order with respect to the above-referenced petitions. We concur with, and incorporate by reference, the comments submitted separately by the City of Stockton.

As a preliminary matter, CVCWA supports the State Water Resources Control Board's (State Water Board) proposed order as it relates to claims by the California Sportfishing Protection Alliance (CSPA) and the San Luis & Delta Mendota Water Authority/Westlands Water District (collectively, the "water agencies") regarding tertiary treatment, dissolved oxygen, ammonia and constituents of emerging concern. Our specific comments relate to the portions of the order addressing salinity.

In light of the State Water Board's order regarding the City of Tracy permit (Order WQ 2009-0003 (the Tracy Order)), the proposed remand of the Stockton permit for revisions of the effluent limitations for electrical conductivity (EC) is perhaps not surprising. We continue to be greatly concerned, however, regarding the State Water Board's conclusion that the water quality objectives included in the Bay Delta Plan must be applied to the City of Stockton's discharge. As noted in our comments regarding the Tracy Order, the State Water Board's rationale and holding does not square with its characterization of the 2006 amendments to the Bay-Delta Plan as a re-affirmation of the applicability of the salinity objectives to POTWs. To the contrary, the Tracy

Order (and now the proposed Stockton order) expands – rather than reaffirms – the water quality objectives at issue and/or their implementation. Such an expansion violates Water Code sections 13241 and 13242. As the State Water Board has acknowledged, the Bay-Delta Plan relies primarily upon flow requirements to implement the EC objectives in the Southern Delta. (*In the Matter of the City of Manteca*, Order WQ 2005-0005 at p. 7.)

In addition, the proposed order is disproportionately harsh in addressing the City of Stockton's contention that the salinity reduction requirements in the permit were inappropriate. Like CVCWA, the City of Stockton is voluntarily participating in the CV-SALTS effort, and has contributed financially, at the requested level, to the Central Valley Salinity Coalition. Whether the City has an interest, as all users of the San Joaquin River and Delta do, in helping to develop long-term sustainable solutions to salinity issues is a different question than whether the specific permit provisions at issue were correctly imposed. The State Water Board's own data indicates that all of the POTWs discharging to the San Joaquin River collectively contribute less than one percent of the total salt loading. (San Joaquin River Annual Salt Loading WY 1985-1995, included in Materials for April 15, 2009 Special Meeting of the State Water Resources Control Board regarding Salinity Issues at p. 0009.) In light of this fact, the City's position that a focus on controlling salinity in its discharge is not warranted is not "radical" but empirically and logically sound. Indeed, this Board's prior decisions have recognized that the *de minimis* level of a discharge's contribution is a relevant factor in determining the appropriate regulatory response. (See, e.g., *In the Matter of the Review on its Own Motion of Waste Discharge Requirements for the Avon Refinery*, Order 2001-06 at p. 23 (rejecting proposed interim effluent limits where "even if the dischargers achieved '0' discharge, there would be no demonstrable water quality effect.")) The proposed order does not excoriate the other petitioners for perspectives asserted in support of their claims, and should be revised to delete the gratuitous reference to the City's viewpoint being "radical." (Proposed Order at p. 6.)

Thank you for your consideration of our comments.

Sincerely,



Debbie Webster
Executive Officer

cc: Pamela Creedon, CVRWQCB
Lori Okun, CVRWQCB
Jeff Willett, City of Stockton