



CVCWA

Central Valley Clean Water Association

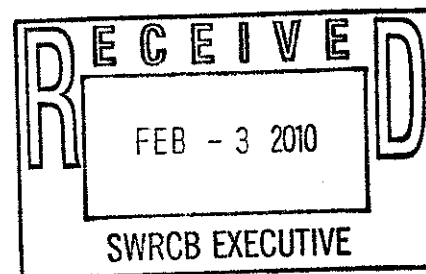
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February 3, 2010

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, California 95814



Submitted via electronic mail to: commentletters@waterboards.ca.gov

RE: Comments to SWRCB/OCC File A-1988 – February 16, 2010 Board Workshop

Dear Ms. Townsend:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to review and comment on the State Water Resources Control Board's (State Water Board) proposed order on the Petition of California Sportfishing Protection Alliance (Waste Discharge Requirements Order No. R5-2008-0183 [NPDES No. CA 0077895] for the University of California, Davis Main Wastewater Treatment Plant, Solano and Yolo Counties) (Proposed Order). Based on our review, CVCWA makes the following comments on the Proposed Order.

In the background section, it states that the "University concluded that an EC value of 1,100 umhos/cm would *fully* protect agriculture in the Davis area." (Proposed Order at p. 3, emphasis added.) While CVCWA understands that here the State Water Board is characterizing a statement made by someone else, we believe it important to note that the proper legal standard for protecting agriculture in the Davis area, or for protecting any beneficial use, is *reasonable* protection. The Porter-Cologne Water Quality Control Act (Porter-Cologne) requires activities that may impact the quality of water be regulated "to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters...." (Wat. Code, §§ 13000, 13140.) Furthermore, water quality objectives are to be established for the "reasonable protection of beneficial uses of water." (Wat. Code, §§ 13050(h), 13241.) The controlling statute does not require that water quality objectives, including site-specific objectives for EC, be "fully protective."

Further, the California Court of Appeal has already opined that the statutory standard for the protection of beneficial uses is not "full" protection but "reasonable" protection. (*United States*

v. State Water Resources Control Board (1986) 182 Cal.App.3d 82, 121-122 [“The Board’s paramount duty was to provide ‘reasonable protection’ to beneficial uses, considering all the demands made upon the water.”].) In that case, the Court found that it was not necessary to set salinity standards at levels that would provide full protection to South Delta water users but that the Board had a duty to provide “reasonable protection” considering all the demands on the water. We encourage the State Water Board to revise the Proposed Order so that there is no confusion with respect to the applicable legal standard for protecting beneficial uses.

CVCWA is also concerned that the Proposed Order fails to recognize the significant efforts currently underway in the Central Valley to address salt issues on a region-wide scale. As the State Water Board is aware, the Central Valley Regional Water Quality Control Board (Central Valley Water Board), publically owned wastewater treatment facilities and others are all making significant investments in CV-SALTS and the stakeholder process associated with this effort. As part of CV-SALTS, the technical advisory committee is reviewing various methodologies for determining how best interpret the narrative chemical objective as applied to electrical conductivity to protect agricultural beneficial uses. The technical advisory committee’s review includes evaluating various methodologies, including: the University’s approach discussed in the Proposed Order; Dr. Glenn Hoffman’s approach in the *Crop Salt Tolerance in the Southern Sacramento-San Joaquin River Delta*, prepared for the State Water Board; and, others. It is anticipated that the University and others would revise site-specific studies based on information obtained during this review by the technical advisory committee. By requiring the Central Valley Water Board to decrease the amount of time available for the University to revise the study, the State Water Board is hindering the CV-SALTS process from proceeding forward in a manner that is beneficial to all stakeholders in the region. To avoid this result, we request that the Proposed Order be revised to provide the Central Valley Water Board with the appropriate discretion to determine what are appropriate study times, especially as related to other efforts such as CV-SALTS.

CVCWA appreciates the opportunity to comment. Please contact me at (530) 268-1338 if you have any further questions.

Sincerely,



Debbie Webster
Executive Officer – CVCWA

c: Pamela Creedon – CVRWQCB (email)
Michael Fan – UC Davis (email)
Daniel Cozad – CV-SALTS/CVSC (email)