Central Valley Regional Water Quality Control Board
27 February 2026 Board Meeting

Response to Written Comments on
Tentative Waste Discharge Requirements for
City of Sacramento
Combined Wastewater Collection and Treatment System
Sacramento County

At a public hearing scheduled for 27 February 2026, the Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) will consider adoption of tentative Waste Discharge Requirements (NPDES No. CA0079111) for the City of Sacramento Combined Sewer System (CSS). This document contains responses to written comments received from interested persons and parties in response to the tentative Order. Written comments from interested parties were required to be received by the Central Valley Water Board by 16 January 2026 in order to receive full consideration. Comments were received prior to the deadline from:

1. City of Sacramento (Discharger or City) (received 15 January 2026)
2. Ann Broderick (Concerned Citizen) (received 14 January 2026)
3. Staff Revisions

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

DISCHARGER COMMENTS

DISCHARGER COMMENT #1 – Minor Editorial Changes

The Discharger submitted minor comments on the tentative Order, including editorial changes, cross-references, and typographical corrections.

RESPONSE:

Central Valley Water Board staff concur and have revised the proposed Order accordingly.

CONCERNED CITIZEN COMMENTS

CITIZEN COMMENT #1 – Asset Management Deficiencies

Ms. Broderick states that multiple audits have found that the Discharger lacks a complete and reliable inventory of its combined sewer and storm drainage assets and cites concerns about the Discharger's asset management program and lack of accurate data.

Ms. Broderick also cites concerns about operational, financial, and environmental risks due to the lack of asset data since it impacts forecasting replacement cycles, prioritizing investments, or modeling system performance. Given these gaps, the Discharger should consider a temporary pause on new construction within the combined sewer system (CSS) service area until a complete asset inventory and condition assessment are completed. Other cities have been required to complete such work prior to permit approvals, and Sacramento should not be exempt from the same level of accountability.

RESPONSE:

Central Valley Regional Water Board staff appreciate this comment but no changes are proposed to the tentative Order.

The CSS is regulated through the Discharger's NPDES permit by the U.S. EPA Combined Sewer Overflow (CSO) Control Policy, a national framework guiding municipalities with CSSs to meet federal Clean Water Act (CWA) standards by implementing the Nine Minimum Controls (NMCs) and site-specific Long-Term Control Plans (LTCPs). The NMCs are the minimum technology-based controls to reduce water quality impacts. The LTCP is developed by the Discharger to achieve compliance with water quality standards and other CSO Control Policy and CWA requirements.

The proposed Order includes several changes to the LTCP framework and reporting structure which are aimed at improving transparency, better identifying critical or at-risk areas of the system, allocating resources where they are most needed, and reducing and eliminating spills and untreated discharges to the river. The Discharger's future Annual LTCP reports requires they establish and report short- and long-term Capital Improvement Plan (CIP) projects to address identified conditions and hydraulic deficiencies resulting in outflows and other improvements that ensure compliance with the CSO Control Policy. The LTCP also requires the Discharger to conduct and report CSS infrastructure assessments to identify and prioritize project needs that reduce outflows and spills.

The purpose of the NPDES permit is protection of beneficial uses in the receiving water and timely renewals are important to ensure water quality policies, limitations, and monitoring are up to date and protective of aquatic life and human health. The NPDES permit's intent, protecting water quality, is one of many motivators for the Discharger to continue its improvement efforts. The audit findings and asset management concerns will be addressed by the Discharger's targeted goals in the updated LTCP framework and will be assessed by permitting staff at the next permit renewal.

CITIZEN COMMENT #2 – Limitations of the Current Adaptive Management Approach

Ms. Broderick states that the City's adaptive management framework lacks measurable benchmarks, transparent reporting, clear accountability, and dependable underlying data.

Ms. Broderick cites that historical context underscores the need for improved transparency. The 1990 cease-and-desist order halted new CSS connections after unreported overflows to the river and outflows to the streets. The 1995 Combined Sewer System Improvement Plan (CSSIP) identified needed storage and capacity projects, yet the status of many remains unclear. For example, the most recent Long Term Control Plan (LTCP) Annual Progress Report lists the "Sutter Middle School Storage Project" as complete, though no such facility appears to exist.

Additional concerns include:

- **Green Infrastructure (GI):** Once a key LTCP strategy, the GI program has been discontinued after pilot studies showed limited benefit.
- **Rainfall-Derived Inflow and Infiltration (RDII)**: RDII remains a major source of hydraulic stress, and the City has not yet produced a viable reduction strategy or demonstrated measurable progress. Without accurate RDII characterization, the hydraulic model cannot reliably predict system performance.
- **Development Pressure:** The City continues to promote aggressive infill development and widespread ADU construction in one of Sacramento's most impervious areas. This increases runoff volume entering century-old pipes which are compromised by cracked joints, root intrusion, structural deterioration, and accumulated fats, oils and grease (FOG). Encouraging additional development without addressing system capacity only compounds risk to public health, property and the environment. The 2023–2024 LTCP Annual Progress Report indicates that new development impacts, specifically the increase in average daily sewage and impervious area, have increased tenfold over the previous year.

RESPONSE:
Central Valley Regional Water Board staff appreciate this comment. The Discharger and the CSS are in compliance with the CSO Control Policy and the Discharger is implementing measures through the LTCP to adapt to worsening climate change impacts, identify clearer benchmarks, maintain transparent reporting and accountability, and collect dependable and accurate data to prevent or reduce CSS outflows and CSOs.

The proposed Order has made several changes to the LTCP reporting structure aimed at providing measurable and reportable metrics to determine the efficacy of the Adaptive Management Plan and to report how the CSS is mitigating increased flows in the CSS due to growth, which will be reviewed by permitting staff at the next permit renewal. Refer to Attachment E, Section X.D.4-5 for further details on NMC and LTCP annual report requirements.

The 2018 LTCP listed the combined Project 4-1&2 (Combined McKinley and Sutter School Storage) as one of the prioritized projects for the CSS, which the City completed construction in 2021. Although commonly referred to as the McKinley Vault, Project 4-1&2 was a combined project initially described in the 2014 CSSIP as two separate projects (4-1 and 4-2) that incorporated storage capacity from both the conceptual projects. The completed project is consistent with the 2018 LTCP, which described the Project 4-1&2 Combined McKinley and Sutter School Storage project as “is an approximate 7-million-gallon storage facility installed underneath McKinley Park.

- **Measurable Metrics:** The LTCP Annual Report framework is intended to provide measurable benchmarks to assess the effectiveness of the Adaptive Management Strategy. The report will provide progress updates on H&H model refinements to inform capacity assessments, including evaluation of system monitoring as compared to model results, progress on condition assessment program and project prioritization processes and a comparison of the CSS performance to a similar size storm in the past. The report will also include progress on the following performance metrics: protecting public health, CSS treatment system and collection system assessment and prioritization, and long-term CSS resiliency.

- **Growth and Development Pressure:** In the LTCP Annual Reports, the Discharger will provide updates addressing the management of additional drainage and sewer flows to the CSS from growth within the CSS service area (e.g., new development and redevelopment) to demonstrate compliance with Section VI.4.c of the Order WDRs. The status of the Railyard and River District

development projects will be specifically discussed in the annual reports. The annual updates will include estimates of the added volume of drainage and sewer flows from growth within the CSS service area and will discuss how the CSS will be able to manage the increased flows without increasing untreated CSO's and CSS outflows or reducing the overall percentage of annual flow routed to the SacSewer EchoWater Resource Recovery Facility. Additionally, CSS monitoring has shown that, despite increased development, system dry weather flows have decreased over the last 30 years.

- **Rainfall-Derived Inflow and Infiltration (RDII):** In 2022, the City's consultant conducted a study that identified potential opportunities associated with the City's RDII reduction program. This investigation involved additional calibration of the City's model to better account for RDII flows within the CSS area, which included a flow monitoring program of 30 meters in place from January 2018 through April 2018. While calibration was performed, the effort noted that the observed storm events were relatively small, and the observed responses were generally insufficient to use as the basis for developing RDII reduction projects. RDII reduction may be effective as an alternative to other capacity improvement projects and should be considered as part of future efforts by the City to address system capacity.
  Furthermore, the City deployed a SmartCover program within the CSS during the 2023/2024 wet weather season for H&H model validation and calibration. SmartCovers are real-time stage depth monitors, installed in manholes to track the water surface elevations. Improved and real-time monitoring from the SmartCover Program will provide information on wet weather CSS volumes and locations that should receive maintenance to address deficiencies. Evaluating various alternatives for managing the CSS flows is essential for ensuring fiscally responsible improvements for the future, and RDII reduction projects within the separated basins contributing flows into the CSS will be considered to address system capacity.

- **Green Infrastructure (GI):** In 2022, the City conducted an initial evaluation of potential green infrastructure opportunity sites. While the study identified a number of areas with potential suitability, the City identified that green infrastructure projects would provide limited benefits to reductions for both untreated CSOs and outflows. Green infrastructure projects are generally intended to provide treatment or infiltrate the runoff from small storm events. The City is already collecting and conveying runoff from smaller events to EchoWater. Green infrastructure may still be appropriate in some cases, but implementation

would not improve the City's ability to meet the presumption approach to the CSOs nor reduce outflow volumes from larger storm events.

No changes are proposed to the tentative Order.

CITIZEN COMMENT #3 – Rising Costs and Long-Term Financial Pressures

Ms. Broderick states that the financial burden associated with maintaining and upgrading the CSS has grown dramatically. Each year, the Department of Utilities requests additional sources of money supported by consultant reports costing taxpayers millions of dollars. These reports consistently repeat the same findings: deferred maintenance on a century-old system is driving higher failure risks, more frequent emergency repairs, and declining service reliability.

Ms. Broderick cites that many neighborhood collector pipes are still 8-inch clay pipes installed more than a century ago. Sacramento's flat topography compounds the problem by limiting gravity-driven drainage, causing stormwater to overwhelm the system during heavy rains. Climate change is expected to increase rainfall intensity and wastewater costs. The result is a widening gap between system capacity and system demand, with escalating costs borne by residents while the core structural deficiencies remain unresolved.

She states that considering Sacramento's growing population over the last 15 years, it remains unclear to customers what proportion of the sewer and stormwater funding is being directed toward maintaining and upgrading this aging CSS infrastructure.

RESPONSE:

Central Valley Regional Water Board staff appreciate this comment but consider it outside the scope of the NPDES permit renewal. The Discharger and the CSS are in compliance with the CSO Control Policy and the current NPDES permit and staff cannot specify the system operations and/or methods of compliance. No changes are proposed to the tentative Order.

The LTCP annual reports include reporting on Capital Improvement Project plans. The City of Sacramento Approved Budget for Fiscal Year 2025-2026 is available to the public online here: FY2025_26 Approved Operating Budget.pdf (https://www.cityofsacramento.gov/content/dam/portal/finance/Budget/fy2025-26-approved/FY2025_26%20Approved%20Operating%20Budget.pdf).

STAFF REVISIONS ON WHOLE EFFLUENT TOXICITY

STAFF REVISION #1 - Add to Reopener Provision in WDRs Section VI.C.1.f as follows:

f. **Whole Effluent Toxicity.**

i. This Order may be reopened for modification to revise the aquatic toxicity provisions if the Supreme Court determines that the test of significant toxicity cannot be used in NPDES permits and the State Water Board suspends or revises the aquatic toxicity water quality standards.

ii. If after review of new data and information, it is determined that the discharge has reasonable potential to cause or contribute to an instream exceedance of the Statewide Toxicity Provisions' numeric chronic aquatic toxicity objective and Basin Plan's narrative toxicity objective this Order may be reopened and effluent limitations added for acute and/or chronic toxicity.

STAFF REVISION #2 – Add Corresponding Rationale to Modified Reopener Provision in Attachment F, Section VI.B.1.d as follows:

d. **Whole Effluent Toxicity.** This Order may be reopened for modification to revise the aquatic toxicity provisions if the Supreme Court determines that the test of significant toxicity cannot be used in NPDES permits and the State Water Board suspends or revises the aquatic toxicity water quality standards. See Fact Sheet Section III.C.1.c for more information.

If after review of new data and information, it is determined that the discharge has reasonable potential to cause or contribute to an instream exceedance of the Statewide Toxicity Provisions' numeric chronic aquatic toxicity objective and Basin Plan's narrative toxicity objective this Order may be reopened and effluent limitations added for acute and/or chronic toxicity.

STAFF REVISION #3 - Add Description and Status of Statewide Toxicity Provisions to Fact Sheet under State and Federal Laws, Regulations, Policies, and Plans (Attachment F, Section III.C.1.e) as follows:

e. **Statewide Toxicity Provisions.** On 1 December 2020, the State Water Board adopted State Policy for Water Quality Control: Toxicity Provisions (Toxicity Provisions) which established statewide numeric water quality objectives for both acute and chronic toxicity, using the TST, and a program of implementation to control toxicity. On 5 October 2021, the State Water Board adopted a resolution confirming that the Toxicity Provisions were adopted as a State Policy for Water

Quality Control, for all inland surface waters, enclosed bays, estuaries, and coastal lagoons of the state, regardless of their status as waters of the United States. The Toxicity Provisions establish a uniform regulatory approach to provide consistent protection of aquatic life beneficial uses and protect aquatic habitats and life from the effects of known and unknown toxicants. The Toxicity Provisions were approved by OAL on 25 April 2022, and by U.S. EPA on 1 May 2023.

On 14 December 2023, the State Water Board applied for U.S. EPA Region IX review and approval of a limited-use alternative test procedure (ATP), for the use of one-effluent concentration when conducting whole effluent toxicity (WET) testing, pursuant to 40 Code of Federal Regulations section 136.5 (28 August 2017). The application is specific to acute or chronic WET tests in Table 1 of the application when using the Test of Significant Toxicity (TST) statistical approach (U.S. EPA, 2010) for analyzing the data. The application is being sought for all dischargers or facilities in the State of California and their associated laboratories. The ATP application is still pending with U.S. EPA.

The use of the TST has been the subject of litigation. In December 2024, the Second District Court of Appeal upheld the use of the TST in an NPDES permit in the case Camarillo Sanitary District v. California Regional Water Quality Control Board - Los Angeles Region.

A separate legal challenge to the State Water Board's adoption of the Toxicity Provisions originated in Fresno County Superior Court on 18 July 2022, through a petition for writ of mandate filed by Camarillo Sanitary District, City of Simi Valley, City of Thousand Oaks, Central Valley Clean Water Association, and Clean Water SoCal (formerly known as Southern California Alliance of Publicly Owned Treatment Works) (Petitioners). One of the claims was that the Toxicity Provisions was inconsistent with the Clean Water Act. On 9 October 2023, the superior court denied the petition in its entirety.

On 19 December 2023, three of the Petitioners filed a notice of appeal of the Fresno Superior Court's decision upholding the Toxicity Provisions. On 5 August 2025, the Fifth District Court of Appeal issued a published opinion holding that the TST statistical approach, which is an integral component of the Toxicity Provisions, cannot be utilized in NPDES permitting to evaluate WET data because the TST is not an approved method under 40 Code of Federal Regulations Part 136. The Court of Appeal did not, however, disturb the Toxicity Provisions' use of the TST as a part of its water quality objectives. The State

Water Board prevailed on all other claims in the litigation. The Court of Appeal's decision became final on 4 September 2025.

On 15 September 2025, the State Water Board filed a petition for review of the Fifth Circuit Court of Appeal's decision with the California Supreme Court. On 12 November 2025, the California Supreme Court granted review. The issues to be briefed and argued are limited to the issues raised in the State Water Board's petition for review.

Pending the California Supreme Court's review, the opinion of the Fifth Circuit Court of Appeal is not binding on the Water Boards. However, the opinion may be cited, not only for its persuasive value, but also for the limited purpose of establishing the existence of a conflict in authority.

In accordance with Water Code sections 13146 and 13247, the Regional Board must fully implement the water quality objectives and their implementation procedures in the Toxicity Provisions. The numeric water quality objectives for chronic and acute toxicity established by the Toxicity Provisions, which are based on the TST, were approved by U.S. EPA and remain in effect. As such, the numeric water quality objectives continue to serve as the applicable federal water quality standards in California.

The Water Boards must also continue to comply with federal Clean Water Act NPDES regulations for determining reasonable potential and establishing applicable water quality-based effluent limitations (WQBELs). NPDES regulations (40 CFR § 122.44(d)(1)(vii)(A)) require that all WQBELs be derived from and comply with all applicable water quality standards. Moreover, although the Toxicity Provisions left in place narrative water quality objectives for aquatic toxicity in regional water board water quality control plans (basin plans), the Toxicity Provisions did supersede basin plan provisions and portions of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP) for implementing narrative water quality objectives. As such, there are currently no basin plan or SIP procedures in effect for implementing narrative water quality objectives to determine reasonable potential as required by 40 CFR § 122.44(d)(1)(ii). As a result, the Regional Board must fully implement all of the Toxicity Provisions.

STAFF REVISION #4 – Modify discharge prohibition in WDRs Section III.F as follows:

F. Unless approved by the Central Valley Water Board, discharges from Discharge Points 002,003, 004, 005, 006, and/or 007 to surface waters or surface water drainage courses are prohibited during non-storm events. The permit must be reopened to allow discharge from the CSS, including the CWTP and Pioneer Reservoir, when the discharges would not be required by wet weather conditions.

STAFF REVISION 5 – Remove subsection k in WDRs Section VI.A.2 (Standard Provisions) since it is only applicable to Publicly-Owned Treatment Works and thus is not applicable to the CSS.