



California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat, and Water Quality"

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16 January 2009

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 "I" Street, 24th Floor [95814]
P.O. Box 100
Sacramento, CA 95812-010
commentletters@waterboards.ca.gov

VIA: Electronic Submission
Hardcopy if Requested

RE: **Comments to A-1886 – February 3, 2009 Board Meeting:** Proposed Order: Review of Waste Discharge Requirements and Master Reclamation Permit (City of Lodi), Central Valley Water Board

Dear Ms. Townsend and Board:

The California Sportfishing Protection Alliance (CSPA or CALSPA) received and reviewed the State Water Resources Control Board's Draft Own Motion Review Water Quality Order (Order) regarding the City of Lodi's Waste Discharge Requirements (Permit) (Order No. R5-2007-0113) (NPDES No. CA0079234) and submits the following comments.

The Order is limited to compliance with California Code of Regulations Title 27, with the exception of requiring the Regional Board add a narrative chronic toxicity limitation to the Permit. We are disappointed that the State Board failed to discuss and address many of the surface water issues raised in our petition but appreciate the Board's review and general concurrence with our points and authorities regarding groundwater degradation, pollution and non-compliance with CCR Title 27 at the City's wastewater treatment and disposal facility. We agree with most of the Background, Issues and Findings in the Order, as they pertain to groundwater.

The City of Lodi has a fairly sophisticated tertiary wastewater treatment plant. During the summer months, effluent from the wastewater treatment plant is used to dilute untreated industrial wastes and sludge which is then land applied. Despite the passage of years, the Regional Board has not been effective in requiring the City either characterize the untreated industrial wastes or adequately determine the impacts to groundwater. Despite the poor data it is clear that the wastewater discharge has degraded and polluted groundwater for electrical conductivity (EC), a measure of salt, and for nitrate. The poor characterization of the wastewater limits our knowledge of what other chemicals have polluted groundwater under the site.

The following excerpts from the Order we believe confirms and summarizes our concerns for water quality and conformance with CCR Title 27:

1. CALSPA asserts that the White Slough permit authorizes the land disposal of sludge, untreated industrial wastewater, and domestic effluent in violation of Title 27. The Board agrees with this assertion. (Page 7)

Further, the limited evidence that is in the record indicates that, at a minimum, discharges from the unlined storage ponds at the facility have released waste constituents to groundwater at concentrations that exceed applicable water quality objectives. (Page 7)

2. Although the City has apparently been conducting groundwater monitoring since 1989, the City and the Central Valley Regional Board agree that background water quality has not yet been adequately characterized. (Page 10)
3. In any event, the lack of data in the current record leads to the conclusion that an exemption from Title 27 is not justified at the present time.
4. Between August 2001 and November 2005, all four wells exhibited median nitrate concentrations over 11 milligrams per liter (mg/l) as N. The applicable groundwater objective for nitrate is the maximum contaminant level of 10 mg/l as N. Three of the wells had peak concentrations, during this period, of over 36 mg/l, more than three times the maximum contaminant level for nitrate as N. (Page 13)
5. Limited data indicates that TDS and EC values in the pond exceed water quality objectives for groundwater during much of the year. (Page 13)
6. Based on the available evidence in the record, the Board concludes that at least some of the Facility's activities have adversely affected groundwater underlying the site. (Page 14)
7. The salts in this waste stream are of particular concern, as discussed above, because the majority of the salts are expected to move directly to groundwater. (Page 16)
8. The Board has concluded that the monitoring performed to date at the White Slough facility is inadequate to show that the City's land disposal activities comply with preconditions for an exemption from Title 27. In addition, evidence in the record indicates that the releases of wastewater from the onsite storage ponds have caused the underlying groundwater to exceed the applicable Basin Plan nitrate and EC objectives. (Page 17)

The above citations from the State Board's Order agree with our contention that the wastewater discharge at the City of Lodi has polluted groundwater and that a wastewater discharge that causes exceedance of Basin Plan water quality objectives does not qualify for an exemption from CCR Title 27. Despite the Order's recognition that the City of Lodi's wastewater treatment and disposal practices have polluted groundwater and that the provisions of CCR Title 27 are applicable; the Order focuses on means to demonstrate compliance with the exemptions from CCR Title 27. The State Board's Order clearly articulates that the exceptions to CCR Title 27 do not apply yet compliance with the regulation is not being required. The *Actions on Remand* section of the Order should be revised to clearly require:

- The Regional Board issue a CCR Title 27 permit requiring full compliance under a compliance schedule; or that
- The Regional Board issue an Enforcement Order requiring compliance with the exemptions to CCR Title 27; and that
- A compliance schedule be developed that is as short as is practicable for compliance with CCR Title 27 or the applicable exemptions, including an analysis of industrial pretreatment or discharge cessation options; and that
- A best practicable treatment and control (BPTC) analysis be conducted for the treatment and disposal of sludge and to determine whether the elimination of the use of the existing filtration at the domestic wastewater treatment plant during periods of land disposal represents BPTC; and that
- The total and each individual wastestream be fully characterized, and that
- The extent of groundwater degradation and pollution be determined including an analysis of cleanup measures and costs.

The Central Valley Regional Board has recently begun to include a narrative chronic Effluent Limitation in their NPDES permits. However, the Permits have contained a *Compliance Determination* which has stated that: "Compliance with the accelerated monitoring and TRE/TIE provisions ... shall constitute compliance with effluent limitations ..." The *Compliance Determination* nullifies the Effluent Limitation and makes toxic discharges unenforceable. We do not disagree with the requirements to conduct additional expedited monitoring or to conduct a TRE/TIE; however the limitation must be enforceable in order to effectively eliminate toxic discharges.

Sincerely,



Bill Jennings, Executive Director
California Sportfishing Protection Alliance

Cc: Service List
Interested Parties