

**Regional Water Quality Control Board
Central Valley Region**

Board Meeting – 8/9/10 June 2011

**Response to Written Comments on
Tentative Waste Discharge Requirements for**

**Pactiv Corporation
Molded Pulp Mill
Tehama County**

5 May 2011

At a public hearing scheduled for 8/9/10 June 2011, the Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) will consider adoption of tentative Waste Discharge Requirements (NPDES No. CA0004821) for the Pactiv Corporation, Molded Pulp Mill in Tehama County. This document contains responses to written comments received from interested parties in response to the Tentative Order. Written comments from interested parties were required to be received by the Central Valley Water Board by 5 May 2011 in order to receive full consideration. Comments were received prior to the deadline from:

1. U.S. EPA (received 3 May 2011)
2. Pactiv Corporation (received 5 May 2011)

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

U.S. EPA COMMENTS

U.S. EPA – COMMENT #1:

In the MRP, Page 2 (or E-2), Sections C and D are redundant.

RESPONSE:

Central Valley Water Board staff agrees. The tentative permit has been revised to clarify the language.

U.S. EPA – COMMENT #2:

In the Fact Sheet, you should add where the settleable solids WQBELS come from (BPJ?).

RESPONSE:

The effluent limit for Settleable Solids is based on Best Professional Judgment, and the implementation of the Basin Plan's narrative objective for Settleable Materials. An addition to the tentative permit was made to clarify.

U.S. EPA – COMMENT #3:

If you could add some clarification in the fact sheet regarding the Cu and Zn chronic criteria to show why there are two criteria (Regional vs. Basin Plan), and also specifically address the DDT, PCBs, and dieldrin 303(d) listings by saying that are ND, that would be helpful.

RESPONSE:

Central Valley Water Board staff agrees. The tentative permit has been revised for clarity.

PACTIV CORPORATION COMMENTS

PACTIV CORPORATION – COMMENT #1:

If the Board continues to insist that Pactiv install and monitor Ponds 1, 2, 3 and the aeration basin, Pactiv is unlikely to complete its planned move to Pond 4. The funds needed for monitoring Ponds 1, 2, 3 and the aeration basin will be taken from those planned for the costs of transferring wastewater treatment to Pond 4. Pactiv will require additional time to make a final decision but is not inclined to move to Pond 4 if it still must incur the costs to install and monitor wells around the other ponds to be taken out of service.

Accordingly, under the circumstances, Pactiv request that the Board revise the tentative order as follows:

1. on page 23, revise the order to read as follows:
 - (ii). decide whether to continue with modifications to Pond 4 and use Pond 4 for wastewater treatment or remain using Ponds 1 through 3 and aeration pond (within one year following order adoption)
 - (iii). install monitoring wells around the ponds to be used in the future following decision in task (ii). If using Pond 4, complete modifications to Pond 4, commence use of Pond 4 for wastewater treatment, and discontinue discharges of processed wastewater to Ponds 1 through 3 and aeration pond (within one year after following the implementation of task (ii)).

- (iv) submit technical report summarizing groundwater monitoring results for applicable ponds including evaluation of effectiveness of the ponds and recommending additional measures as necessary to achieve full compliance by the full compliance date (within one year following implementation of task (iii)).

In addition, on E-4 and E-11, revise the monitoring requirements for GW-001, GW-002, and GW-003 to make them contingent upon the use of Pond 4. There also will need to be conforming changes to the textual discussion on pages 21, 23, C-2, E-4, E-11-12, F-8, F-11, F-41 and F-54-55.

RESPONSE:

Central Valley Water Board staff does not concur. The proposed groundwater monitoring study requires groundwater impacts from past operations of Ponds 1 through 3 to be determined. Furthermore, groundwater impacts from any ponds used for treatment or storage of waste in the future must be evaluated and shown to be consistent with a Title 27 exception.

If Pond 4 is not put into operation, then groundwater monitoring related to Pond 4 would not be required.

PACTIV CORPORATION – COMMENT #2:

Definition of Waste Constituents. In the discussion of the groundwater monitoring around the ponds on pages 13, 21 and F-54, there are references to “waste constituents.” In Table E-7 on Page E-12, there is a list of parameters to be monitored which, based on our discussions to date, is the list of “waste constituents.” For clarity, we suggest adding a definition of “waste constituents” to the definitions in Appendix A which would reference the parameters to be monitored as follows:

Waste constituents means the list of chemical parameters and minerals to be monitored as set out in Table E-7 on Page E-12.

RESPONSE:

Central Valley Water Board staff does not concur. The definition of “waste constituents” is essentially all chemicals that can occur in water. The list in the proposed monitoring and reporting program is essentially the waste constituents that are currently required to be monitored. In the future, based on required analytical testing, there may be new waste constituents that will need to be monitored on a regular basis.

PACTIV CORPORATION – COMMENT #3:

3. Pond Monitoring Locations. Table E-1 at Page E-4 describes sampling locations LND 001-005 as locations for “wastewater sampling.” As explained later in the tentative order at Page E-9, however, these are locations for Pactiv to

monitor freeboard in the ponds and any odors. No wastewater samples are taken at these locations and Table E-1 at Page E-4 should be revised accordingly.

RESPONSE:

Central Valley Water Board staff does not concur. Table E-4 of the proposed Monitoring and Reporting Program, requires freeboard, dissolved oxygen, odors, pH and electrical conductivity to be conducted at the land discharge monitoring locations (LND 001-005).

PACTIV CORPORATION – COMMENT #4:

Dilution Credit Study. Pactiv submitted dilution credit studies in 2004 and 2009 showing the assimilative capacity of the Sacramento River. Although no change in that capacity is expected, Pactiv is updating the study for copper, zinc and chronic toxicity and will submit it to the Board prior to the June, 2011 meeting. Pactiv requests that the Board revise the Tentative Order to incorporate the necessary adjustments to those limits before adoption.

In the alternative, the Board should revise the order to expressly provide for revising the order for copper and chronic toxicity once the Board reviews the new dilution study. We understand that the Board is not yet ready to incorporate dilution credits for zinc (see below).

RESPONSE:

Central Valley Water Board staff does not concur. There is a reopener in the proposed permit, specifically dealing the dilution/mixing zone study. The permit may be reopened to modify requirements based on the results of the study.

PACTIV CORPORATION – COMMENT #5:

Time Schedule Order. Pactiv requests two revisions to the time schedule order. First, the order should state that the copper limit is subject to revision based on the dilution credit study. Pactiv urges that the Board not set a limit until it has evaluated and included the dilution credit study. The copper limit is new in this permit. Pactiv has not had a full opportunity to evaluate potential sources of copper in its discharge.

Pactiv also urges the Board to delay setting a final average monthly copper limit until the end of the five year period which would provide Pactiv with sufficient time to evaluate the source of the copper. In the alternative, the Board should delay setting the final monthly limit for copper until it has considered and evaluated the dilution credit study to be submitted by Pactiv.

RESPONSE:

Central Valley Water Board staff does not concur. The proposed time schedule order utilizes the current data that has been analyzed for the facility, using the current dilution credit study. The proposed permit contains reopeners that allow changes to the final effluent limits, based on the various studies that are required by the permit and the time schedule order.

PACTIV CORPORATION – COMMENT #6:

Zinc limit. The Board tentatively is proposing to eliminate the dilution credit which has been in Pactiv’s permit for many years for zinc and to reduce the zinc limit to levels which are likely unachievable, thereby endangering the compliance status of Pactiv’s facility.

- I. According to the Board’s staff, the position taken in the tentative permit is based upon the state’s implementation plan (SIP). According to SIP plan, the Board should discard the data that is not representative. See Section 1.2. Examples included in the SIP plan specifically mention discarding data when seasonal sampling variations or rain events make it appropriate to do so. As set out in more detail in Section 1.4.3.1 of the SIP, when calculating the ambient receiving water background level based upon an observed maximum concentration, the “RWCQB shall have discretion to consider samples to be invalid that have been taken during peak flows of significant storm events”. As Pactiv understands it from the Board staff, a significant storm event caused the upstream dike breach that released the zinc laden sediment detected by Pactiv in the upstream samples in the river.
- II. Pactiv also notes that there are case by case procedures for exception in the SIP. It appears that the one most applicable is for variances to procedure which would allow the Board to set the observed maximum without regard to the two unusual storm event related discharges from the upstream facility. If the Board is unwilling to adjust the zinc limit by any other means, Pactiv wishes to apply for a case by case exception.

If the Board pushes Pactiv to pursue a case by case exception, then the time schedule order and the tentative order should be revised to reflect that the zinc limit will not be set until such time as that case by case exception request is resolved. At a minimum, the list of potential reopeners in the tentative order on Page 18 should include any changes to Pactiv’s zinc limit required by the ruling on the case by case exception petition. If the Board requires Pactiv to pursue a case by case exception, Pactiv will prepare and submit the initial filings in a timely manner. Pactiv also would be willing to conduct an additional study on the river to establish normal and representative zinc levels uninfluenced by the one-time upstream malfunction event.

- III. Another alternative would be to raise the monthly average currently proposed to be 10 mg/L to 17 mg/L. The goal of the limit is to make certain that Pactiv does not cause an increase in the zinc level in the Sacramento River above the water quality limit of 17 mg/L. Pactiv could discharge at a monthly average of that number and have no impact on the river. Alternatively, the Board could set the monthly average at a number between 10 and 17 mg/L and leave the daily maximum at 17 mg/L. This would at least provide some additional room for Pactiv to maintain compliance.
- IV. Pactiv cannot stress enough; however, that it is uncertain whether it can comply under the terms of the proposed order. At a minimum, Pactiv would urge the Board to delay setting any average monthly zinc limit until the end of the five year permit period to allow Pactiv to fully study its options in the event that the Board refuses to change the limit. This could be done with or without deleting the daily maximum of 17 mg/L.

RESPONSE:

Central Valley Water Board Staff does not concur. There is a Time Schedule Order proposed for this facility, which proposes interim effluent limitations for copper and zinc. An implementation schedule is provided in the Time Schedule Order with milestones to achieve compliance with the final effluent limitations by 01 May 2016. During the next five years, the Discharger is required to conduct special studies and complete upgrades to come in compliance with the final effluent limits. There are also reopeners in the permit that will allow changes to final effluent limits based on these studies, if appropriate. The proposed maximum daily effluent limit for zinc is above the maximum effluent concentration (MEC) that has been collected during the current permit cycle (consisting of thirty seven samples).