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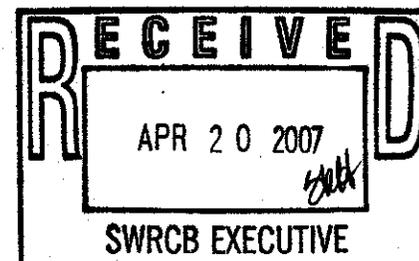
5/1/07 BdMtg Item 6
EBMUD
Deadline: 4/20/07 5pm

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April 20, 2007

Via Email (commentletters@waterboards.ca.gov)
and Facsimile (916) 341-5620

Ms. Song Her
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
P.O. Box 100
Sacramento, California 95812-0100



**Re: C&H Sugar Company's Comments re Revised Draft Order in
SWRCB/OCC File A-1771 In the Matter of EMBUD Wet Weather
Permit and Time Schedule Order, May 1, 2007 SWRCB Meeting**

Dear Ms. Her:

C&H Sugar Company ("C&H") appreciates this opportunity to comment on the State Water Resources Control Board's ("State Board") revised draft Order regarding the NPDES permit and time schedule order issued by the San Francisco Regional Water Quality Control Board ("Regional Board") to the East Bay Municipal Utility District for its wet weather facilities ("Draft Order"). C&H's comments are focused on the Draft Order's discussion of compliance schedules, and its determinations regarding the implementation of new permit effluent limitations for constituents for which there are existing water quality objectives. C&H is in general agreement with, and hereby adopts and incorporates, the comments provided by other interested parties, including the Regional Board, that take issue with the Draft Order's determination on the availability of compliance schedules.

In particular, C&H disagrees with the Draft Order's contention that compliance schedules are not available for mercury and for constituents regulated under the National Toxics Rule. C&H believes that the reasoning in the Draft Order – that the adoption of the State Implementation Plan ("SIP") did not result in a "new interpretation" of the objectives for these constituents – is faulty. The adoption of the SIP clearly resulted in a new interpretation of these objectives, which in turn resulted in new and more stringent effluent limitations being imposed on permittees for the first time. Accordingly, since 2001 the Regional Board has been consistently granting compliance schedules, based on the compliance schedule provisions in its Basin Plan, to allow permittees an appropriate amount of time to meet these new and more stringent standards. The Regional Board's approach is eminently reasonable, it is grounded in well-established procedures and policies as set forth in the State Board's prior "Tosco" Order (Order No. 2001-06), and it accords with basic principles of fairness. The Regional Board's approach should be upheld.

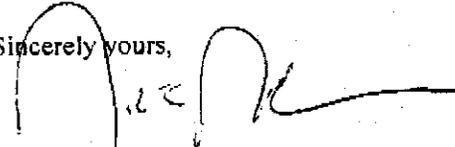
Ms. Song Her
April 20, 2007
Page 2

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The basic point is that there is no meaningful distinction between narrative and numeric objectives when deciding whether to grant compliance schedules. As the Draft Order itself recognizes, relying on principles of fairness, the State Board has determined that when a narrative objective is reinterpreted to establish a new or more-stringent numeric effluent limitation, compliance schedules should be allowed. The same rationale applies here. When numeric water quality objectives are newly interpreted to impose more stringent effluent limitations, as was done through the adoption of the SIP, permittees should similarly be given time to comply. Just like narrative objectives, numeric objectives must be translated – i.e., *interpreted* – to come up with a final effluent limitation in a permit. When it was adopted in 2000, the SIP established a new way to translate these objectives, thereby reinterpreting these objectives to create new and more stringent effluent limitations. Thus, whether the objectives are numeric or narrative, compliance schedules should be allowed under the San Francisco Basin Plan for new interpretations of these objectives, as effectuated in the SIP, that lead to new permit limits.

Based on these comments and the comments submitted by others, C&H requests that the State Board reconsider the provisions of the Draft Order that would disallow compliance schedules for mercury and for NTR constituents. At the very least, if the State Board decides to upend the San Francisco Regional Board's long-standing approach to compliance schedules, the issue should be addressed in a broader policy forum, and in a manner that allows all stakeholders and interested parties to engage in a full and fair discussion for purposes of developing an informed and fair policy that effectuates the purposes of the Clean Water Act and the compliance schedule provisions of the Basin Plan.

Sincerely yours,


Rick R. Rothman