

Central Valley Regional Water Quality Control Board  
16/17 April 2015 Board Meeting

Response to Comments  
for the  
City of Stockton and County of San Joaquin  
Municipal Separate Storm Sewer System (MS4)  
Tentative Waste Discharge Requirements

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The following are Central Valley Regional Water Quality Control Board (Central Valley Water Board) staff responses to comments submitted by interested parties regarding the tentative Waste Discharge Requirements (NPDES Permit No. CAS083470) renewal for the City of Stockton and County of San Joaquin's (Permittees) Municipal Separate Storm Sewer System (MS4).

The tentative NPDES Order was issued for a 30-day public comment period on 23 February 2015 with comments due by 25 March 2015. The Central Valley Water Board received public comments regarding the tentative Permit by the due date from the Permittees and the Coalition for a Sustainable Delta. Some changes were made to the proposed Permit based on public comments received.

The submitted comments were accepted into the record, and are summarized below, followed by Central Valley Water Board staff responses.

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**CITY OF STOCKTON and COUNTY OF SAN JOAQUIN (PERMITTEES) COMMENTS**

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**Permittees Comment 1. Updating Storm Water Management Plan (SWMP) During Limited Term Permit – Tentative Order, Finding 51.**

The Permittees request to modify language to clarify the SWMP has already been developed and will not be updated during the limited term permit in Finding 51.

**RESPONSE:** Central Valley Water Board staff concurs and Finding 51 of the tentative Order is modified as shown below:

51. The overall goals of the Permittees' SWMP is to a) reduce the degradation of waters of the State and Waters of the United States (U.S.) by urban runoff and protect their beneficial uses, and b) ~~develop and~~ implement an effective SWMP that is well understood and broadly supported by regional stakeholders...

In addition, the Fact Sheet Section V (page 14) is modified, in part, to reflect these changes as shown below in strikethrough format:

... and b) ~~develop and~~ implement an effective SWMP that is well understood and broadly supported by regional stakeholders. The SWMP is an integral and enforceable component of the proposed permit..."

**Permittees Comment 2. Status of Dissolved Oxygen Monitoring Requirements, Finding 76.**

The Permittees request to modify language regarding the implementation status of dissolved oxygen monitoring requirements in Finding 76.

**RESPONSE:** Central Valley Water Board staff concurs and Finding 76 of the tentative Order is modified as shown below:

76. The *Smith Canal Drainage Area Analysis and Dissolved Oxygen Work Plan Final Report*, described above, also met the requirements for a dissolved oxygen work plan under the NPDES area-wide MS4 permit, Order No. R5-2002-0181 (NPDES No. CAS083470). The Regional Water Board finds that the conclusions presented by the Permittees in this report are not supported by the limited data provided. Further information on the impact from storm water discharges to Lower Calaveras River, Five-Mile Slough, Mormon Slough, and Mosher Slough is needed. Monitoring for these waterbodies was previously ~~will be~~ required by a separate Order.

**Permittees Comment 3. Status of Dissolved Oxygen Plan Submittal, Finding 78.**

The Permittees request to modify language regarding the implementation status of the Low Dissolved Oxygen Plan requirements in Finding 78.

**RESPONSE:** Central Valley Water Board staff does not concur in part with the deletion of the last paragraph in Finding 78. The Permittees proposed changes to existing language alters factual information in Finding 78. However, Finding 78 was modified to correctly represent the actual status of the Low Dissolved Oxygen Plan. In addition, Finding 78 is modified to include the Stockton Deep Water Ship Channel near McLeod Lake location which was erroneously omitted from the listed waterbodies. Finding 78 of the tentative Order is modified as shown below:

78. To address the dissolved oxygen impairment and toxic hot spots identified in the Stockton Urban waterways, the Permittees ~~shall developed~~ and implemented a **Low Dissolved Oxygen Plan** for the following waterbodies:

- Lower Calaveras River
- Mormon Slough
- Five-Mile Slough
- Smith Canal
- Mosher Slough
- Stockton Deep Water Ship Channel near McLeod Lake

The plan was ~~shall be~~ included as a component of the SWMP. This Order includes Provisions for Low Dissolved Oxygen consistent with the Basin Plan implementation program and as needed to develop TMDLs to address these impairments. A separate Order ~~will~~ specified y-monitoring and assessment requirements for these Provisions. A final report on implementation of the Low Dissolved Oxygen Plan was submitted to the Central Valley Water Board in January 2013.

In addition, the Fact Sheet Section IV.C. is modified, in part, in underline/strikeout format as shown below:

**C. Total Maximum Daily Loads (TMDLs)**

In compliance with the ~~current~~ previous Order No. R5-2007-0142, the Permittees submitted a Pesticide Plan, Pathogen Plan, and Smith Canal/Dissolved Oxygen Plan, which were approved by the Regional Water Board. The proposed Order requires the

Permittees to continue or initiate implementation of control programs for pollutants that have been identified to cause or contribute to exceedances of water quality standards and potential impairment of beneficial uses. The proposed permit requires the Permittees to ~~submit~~ implement a Mercury Plan, Low Dissolved Oxygen Plan, Pathogen Plan, and ~~begin sampling for Sediment Toxicity for pesticides (e.g., pyrethroids)~~ Pesticide Plan. The proposed permit requires continued ~~sampling~~, implementation of BMPs, and assessment of the effectiveness of the BMPs to ensure that they are performing to the MEP.

#### **Permittees Comment 4. Implementation of Pathogen Plan, Finding 79.**

The Permittees request to modify language regarding the current implementation status of the Pathogen Plan requirements in Finding 79 to state "...The Pathogen Plan was approved by the Executive Officer on 10 November 2004. Monitoring under this Plan (including any amendments or updates), is ongoing".

**RESPONSE:** Central Valley Water Board staff concurs in part with the proposed modifications to Finding 79. Any amendments or updates to the plan must be in accordance to the requirements of the Order and as prescribed by the SWMP. Finding 79 is modified as shown in underline/strikeout below:

79. The Permittees submitted to the Regional Water Board the *City of Stockton San Joaquin County Pathogen Plan* (Pathogen Plan) on 18 August 2004. This work plan met the requirements for a pathogen pollution prevention plan under the previously adopted NPDES area-wide MS4 permit, Order No. R5-2002-0181 (NPDES No. CAS083470). The Pathogen Plan was approved by the Executive Officer on 10 November 2004 and monitoring under this Plan (including any amendments or updates made in accordance with the requirements of this Order and as prescribed in the SWMP) is ongoing.

#### **Permittees Comment 5. Status of Methylmercury Monitoring, Finding 81.**

The Permittees request to modify language to clarify the current status of methylmercury monitoring requirements in Finding 81.

**RESPONSE:** Central Valley Water Board staff concurs. Finding 81 of the tentative Order is modified in underline/strikeout format as shown below:

81. The Delta is impaired because of elevated levels of methylmercury in fish. The Delta is on the Clean Water Act 303(d) list for mercury and the State Board has designated the Delta as a toxic hot spot under the Bay Protection and Toxic Hot Spot Cleanup Program.

Urban runoff is a source of methylmercury. Urban runoff from four Stockton pump outfalls sampled during the 2003/2004 wet season - Calaveras River Pump Station CR-46, Duck Creek Pump Station DC-65, Mosher Slough Pump Station MS-14, and Smith Canal Pump Station SC-57 - averaged 0.167, 0.103, 0.125, and 0.263 ng/l methylmercury, respectively ~~(Wood et al., 2006a)~~.<sup>8</sup> The methylmercury concentrations ranged from 0.084 to 0.533 ng/l ~~(Wood et al., 2006b)~~.<sup>9</sup>

Monitoring is needed to characterize the concentrations and loads of methylmercury entering the Delta from Stockton area urban runoff and to evaluate options for controlling methylmercury discharges. Characterization studies should include evaluation of methylmercury and total mercury concentrations and loads in receiving waters and discharges, including discharges from detention basins and other management practices. Control Studies should identify variables that control methylmercury production and propose best management practices and implementation schedules. A separate Order previously specified ~~will specify~~ monitoring and assessment requirements that must be implemented for characterization and control studies.

The footnotes corresponding to Finding 81 is modified as shown in underline/strikeout below:

<sup>8</sup> ~~2006.a Wood, M., C. Foe and J. Cooke. Sacramento – San Joaquin Delta Estuary TMDL for Methylmercury, Draft Report for Scientific Peer Review. June 2006. Available at:~~

~~<http://www.waterboards.ca.gov/centralvalley/programs/tmdl/delta/hg.html#SRReports>~~

~~Wood, M., C. Foe, J. Cooke, and S. Louie. 2010. Sacramento – San Joaquin Delta Estuary TMDL for Methylmercury. Central Valley Regional Water Quality Control Board Staff Report. Sacramento. April 2010.~~

~~Table 6.11, 376 p. Available at:~~

~~[http://www.waterboards.ca.gov/centralvalley/water\\_issues/tmdl/central\\_valley\\_projects/delta\\_hg/april\\_2010\\_hg\\_tmdl\\_hearing/apr2010\\_tmdl\\_staffrpt\\_final.pdf](http://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/central_valley_projects/delta_hg/april_2010_hg_tmdl_hearing/apr2010_tmdl_staffrpt_final.pdf)~~

<sup>9</sup> ~~2006b. Wood, M., M. Medina-Metzger, J. Cooke and P. Morris. Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins for the Control of Methylmercury in the Sacramento-San Joaquin River Delta Estuary, Draft Staff Report for Scientific Peer Review. June 2006. Available at:~~

~~<http://www.waterboards.ca.gov/centralvalley/programs/tmdl/delta/hg.html#SRReports>~~  
*Ibid.*

In addition, the Fact Sheet Section IV.C is modified for consistency as discussed in the response to Permittees Comment 3.

#### **Permittees Comment 6. Discharge Prohibitions – Non-Storm Water Discharges, Implementation of Response Plan during Emergency Fire Fighting Flows, Provision B.4**

The Permittees request to modify language to clarify that the response plan for emergency fire fighting flows has already been developed and will not be updated during the limited term permit, Provision B.4

**RESPONSE:** Central Valley Water Board staff concurs and Provision B.4 of the Tentative Order is modified as shown below:

4. Emergency fire fighting flows (i.e., flows necessary for the protection of life or property) do not require immediate implementation of BMPs and are not prohibited. However, each Permittee should coordinate with other agencies to ~~develop~~ continue to implement the a response plan to minimize the impact of fire fighting flows to the environment. BMPs must be implemented to reduce pollutants from non-emergency fire fighting flows

(i.e., flows from controlled or practice blazes) identified by the Permittees to be significant sources of pollutants to waters of the State. The response plan and BMPs shall be updated as needed and ~~incorporated into the SWMP.~~

**Permittees Comment 7. Program Management, Review of Reporting Formats, Provision D.4.e.ii**

The Permittees request to modify language to clarify that the requirements to develop reporting formats and standardize them have been completed under the previous permit term; and that reporting formats will only be updated as needed.

**RESPONSE:** Central Valley Water Board staff concurs and Provision D.4.e.ii of the tentative Order is modified as shown below:

- ii. The Permittees shall jointly ~~develop and/or~~ update the standardized format(s) for all reports required under this Order (e.g., annual reports, monitoring reports, fiscal analysis reports, and program effectiveness reports, etc.) as needed. The standardized reporting format(s) shall be used by all Permittees and shall include protocols for electronic reporting, specifically data reporting.

**Permittees Comment 8. Industrial/Commercial Program, Provision D.10.a.ii**

The Permittees request to modify language in Provision D.10.a.ii to clarify that an inventory of industrial and commercial facilities had been developed under the previous Permit term and that the inventory will be updated as needed.

**RESPONSE:** Central Valley Water Board staff concurs. Provision D.10.a.ii of the tentative Order is modified as shown below:

- ii. ~~Develop and m-~~ Maintain an inventory of industrial and commercial facilities located within the Permittee's jurisdiction;

**Permittees Comment 9. Water Quality Planning and Design Principles, Provision D.16.c**

The Permittees request to modify language to state that the ordinances/standards/specifications will be updated as needed instead of requiring the update within one year of the adoption of development standards.

**RESPONSE:** Central Valley Water Board staff concurs with the proposed modification to Provision D.16.c. It would be an inefficient use of the Permittees' limited resources to update their ordinances/standard/specifications and implement for 18 months; only to have it again be revised to meet requirements of the Region-wide MS4 General Permit, which is proposed to be considered for adoption within 18 months, once it is adopted.

Provision D.16.c is modified as shown in underline/strikeout below:

- c. The Permittees shall revise applicable ordinances/standards/specifications as needed or as required by the Executive Officer, no later than one year after the adoption of the Development Standards by the Regional Water Board.

**Permittees Comment 10. Local Government Approval of Development Standards, Provision D.17**

The Permittees request to add language to clarify the City of Stockton's and County of San Joaquin's approval of the Development Standards.

**RESPONSE:** Central Valley Water Board staff concurs and Provision D.17 of the tentative Order is modified as shown below:

17. The Permittees submitted to the Regional Water Board their revised/functionally equivalent Development Standards, *City of Stockton San Joaquin County Storm Water Quality Control Criteria Plan (SWQCCP)*, dated March 2009. The SWQCCP was approved by the City Council on 7 July 2007 and the County Board of Supervisors in February 2010.

**Permittees Comment 11. Integration of Storm Water Quality and Watershed Principles into Revised Development Standards, Provision D.18**

The Permittees request the following modification to Provision D.18:

*The Development Standards ~~shall be amended/revised to ensure that the integrate the storm water quality and watershed principles, as listed above in 16.a and b., are integrated.~~*

**RESPONSE:** Central Valley Water Board staff concurs in part with the modification. The Development Standards must continually integrate the storm water quality and principles as required by the permit. Provision D.18 is modified, in part, as shown in strikeout format below:

18. The Development Standards shall ~~be amended/revised to ensure that the storm water quality and watershed principles, as listed above in 16.a. and b., are integrated.~~

**Permittees Comment 12. Planning Department Coordination, Provision D.23.c**

The Permittees request a modification to clarify that a geographical information system (GIS) has already been developed as part of the previous Permit term and that the GIS will continue to be used for tracking projects that have been conditioned for post-construction treatment control best management practices (BMPs).

**RESPONSE:** Central Valley Water Board staff concurs. Provision D.23.c of the tentative Order is modified as shown below:

- c. Each Permittee shall ~~develop and~~ continue to implement ~~no later than (6 months from this Order's adoption)~~ the following:

### **Permittees Comment 13. Technical Guidance and Information for Developers, Provision D.25**

The Permittees request the following modification to Provision D.25

*Each Permittee submitted a revised/functionally updated Development Standards [e.g., Stormwater Quality Control Criteria Plan (SWQCCP)] consistent with the requirements of this Order as a component of the SWMP ~~during the previous permit term~~. The Development Standards shall include guidelines and provide recommendations for low impact development/hydromodification strategies for the development community in the Stockton Urbanized Area. The guidelines shall encourage the use of low impact development/hydromodification strategies and be based on the existing site design control measures identified in the existing Development Standards. ~~Prior to approval of the Development Standards, the early implementation of measures likely to be included in the Development Standards shall be encouraged by the Permittees.~~*

**RESPONSE:** Central Valley Water Board staff concurs in part with the proposed modification. The guidelines need to have a basis to which low impact development and hydromodification strategies are applied to. Provision D.25 is modified as shown in underline/strikeout below:

#### **25. Technical Guidance and Information for Developers**

Each Permittee submitted a revised/functionally updated Development Standards [e.g., Stormwater Quality Control Criteria Plan (SWQCCP)] consistent with the requirements of this Order as a component of the SWMP ~~during the previous permit term~~. The Development Standards shall include guidelines and provide recommendations for low impact development/ hydromodification strategies for the development community in the Stockton Urbanized Area. The guidelines shall encourage the use of low impact development/ hydromodification strategies and be based on the existing site design control measures identified in the existing Development Standards. ~~Prior to approval of the Development Standards, the early implementation of measures likely to be included in the Development Standards shall be encouraged by the Permittees.~~

### **Permittees Comment 14. Sediment Toxicity, Provision D.26**

The Permittees request to modify language to clarify the current implementation status of the Sediment Toxicity Plan Provision D.26. The final report for the Sediment Toxicity Plan was submitted to the Central Valley Water Board in January 2013. The update was submitted to the Central Valley Water Board separately from the 2012 Report of Waste Discharge and proposed Storm Water Management Plan or Annual Reports.

**RESPONSE:** Central Valley Water Board staff concurs. Staff notes that the provision is incorrectly referenced in the Permittees comment and should be Provision D.27. Provision D.27 of the tentative Order is modified, in part, in underline/strikeout format as shown below:

**27. Sediment Toxicity:** The Permittees shall developed and implemented a sediment quality-monitoring program (**Sediment Plan**) and submitted a final report for the

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Sediment Toxicity Plan to the Central Valley Water Board on 15 January 2013. The Sediment Plan ~~shall be~~ was included as a component of the 2009 SWMP and addressed the following criterion:

...

- i) ~~The Sediment Plan shall include~~ A time schedule for implementation and assessment.

A final report, Sediment Toxicity, was submitted to the Regional Water Board on 15 January 2013.

In addition, the Fact Sheet Section IV.C is modified for consistency as discussed in the response to Permittees Comment 3.

#### **Permittees Comment 15. Status of Dissolved Oxygen Plan Submittal, Provision D.28.b**

The Permittees request to modify language to clarify the development and implementation status of the Dissolved Oxygen Plan requirements in Provision D.28.b.

**RESPONSE:** Central Valley Water Board staff concurs. It is noted that the Permittees' comment incorrectly refers to the provision and should be Provision D.29.b. In addition, Provision D.29.b is modified to add Five-Mile Slough which was erroneously omitted from the listed waterbodies. Provision D.29.b of the tentative Order is modified as shown below:

- ii. **Low Dissolved Oxygen:** To address the dissolved oxygen impairment and toxic hot spot, the Permittees ~~shall implemented~~ a Low Dissolved Oxygen Plan for the following waterways:
- Lower Calaveras River
  - Mormon Slough
  - Mosher Slough
  - Stockton Deep Water Ship Channel near McLeod Lake
  - Smith Canal
  - Five-Mile Slough

~~The plan shall be was a component of the SWMP and shall include the following:~~

~~Based on the data collected by the monitoring program required under a separate previous Order, the Permittees shall identify areas and/or activities, which contribute to low DO concentrations in the receiving water, such as unsewered areas within the Stockton Urbanized Area, natural vegetation, animal and bird waste, discharges of food wastes and other oxygen demanding substances, or direct discharges from existing collection systems due to sanitary sewer system overflow or blockage. A final report for the Low Dissolved Oxygen Plan was submitted to the Central Valley Water Board in January 2013.~~

**Permittees Comment 16. Implementation of Pathogen Plan, Provision D.28.c.i**

The Permittees request to modify language regarding the current implementation status of the Pathogen Plan requirements in Provision D.28.c.i that would allow changes to the implementation of the Pathogen Plan.

**RESPONSE:** Central Valley Water Board staff concurs with the proposed modifications Provision D.28.c.i. Provision D.28.c.i is modified as shown in underline/strikeout below.

The Permittees shall address this requirement by completing and implementing the Pathogens Plan that was approved by the Executive Officer in 2004 and shall be consistent with the schedule and work tasks prescribed in the SWMP, and any amendments or updates to the Pathogen Plan thereto. The Pathogens Pan shall also include annual updates within the Annual Reports.

**Permittees Comment 17. Dry Weather Field Screening, Provision III.F, Table B, Footnote d**

The Permittees request to modify language regarding the dry weather field screening monitoring frequency requirements in Provision III.F, Table B, Footnote d that would allow monitoring be conducted twice in the same 24-hour period at the same outfall with flow.

**RESPONSE:** Central Valley Water Board staff concurs. Provision III.F, Table B, Footnote d is modified as shown in underline/strikeout format below:

- d. ~~Field screening is conducted during two events per dry season.~~ Approximately 20% of the City outfalls are monitored during dry weather each Permit year. If the outfalls are flowing, they are monitored twice within a 24-hour period.

**Permittees Comment 18. Water Quality Based Programs, Monitoring and Reporting Program, Provision III.I**

The Permittees request modification to the language to show the current status of the monitoring and assessment for the water quality based programs and to state that no additional data needs to be incorporated into future annual reports.

**RESPONSE:** Central Valley Water Board staff concurs in part with the proposed modifications. Provision III.I of the Monitoring and Reporting Program implements the *San Joaquin River Diazinon and Chlorpyrifos, Stockton Urban Waterbodies Pathogen, Sacramento-San Joaquin Delta Methylmercury, and San Joaquin River Dissolved Oxygen TMDLs* and impaired waterbodies listed under the Clean Water Act 303(d). The Permittees are currently subject to these TMDLs and are required to implement each TMDL's requirements under the Water Quality Based Programs described in this tentative Order. In order for the Central Valley Water Board to assess whether the Permittees are complying with the TMDL requirements, data collected from other City or County programs during the next previous term must be continually incorporated in each Annual Report.

Monitoring and Reporting Program, Provision III.I is modified as shown in underline/strikeout form below:

**I. Water Quality-Based Programs**

Monitoring and assessment for the water quality based programs (i.e., pesticides, dissolved oxygen, pathogens, and mercury/methylmercury) for the Stockton Urbanized Area ~~will be~~ was addressed in a separate Order. ~~Any~~ City or County generated data obtained by other programs shall continue to be incorporated, evaluated, and included in each annual report.

**Permittees Comment 19. Map, Attachment A**

The Permittees request to update the map included in Attachment A to illustrate the Permittees; urbanized area and monitoring sites.

**RESPONSE:** Central Valley Water Board staff concurs with including the updated map in Attachment A. The map will be replaced in Attachment A.

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**COALITION FOR A SUSTAINABLE DELTA (COALITION) COMMENTS**

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**Coalition Comment 1. Enforcement by the Central Valley Water Board.**

The Coalition comments that Central Valley Water Board has not conducted meaningful enforcement during current or previous permit terms with regard to non-compliance with the limited monitoring requirements or substantive permit violations revealed by that limited monitoring. Specifically, there has been no effective oversight of the Permittees' Low Dissolved Oxygen and Pathogens Plans, in addition to hundreds of "cause and contribute" violations.

**RESPONSE:** Central Valley Water Board staff does not concur. To address low dissolved oxygen in local surface waters, the Central Valley Water Board has taken the following enforcement actions against the Permittees over the past 12 years to ensure permit compliance is maintained.

- In 2003, Clean up and Abatement Order R5-2003-0706 (CAO) was approved by the Executive Officer to address continuous low dissolved oxygen levels resulting in repeated fish kills along several waterbodies within the Stockton Urbanized Area. This CAO required implementation of best management practices intended to minimize, to the maximum extent practicable, the discharge of oxygen demanding pollutants and nutrients from the City and County. The CAO also required the City and County to effectively prohibit the discharge of vegetation clippings into their respective MS4s from their respective jurisdictions. The CAO contained specific requirements for the Permittees to properly manage waste, properly maintain their MS4 conveyance system, and distribute MS4-related educational materials to each household in their jurisdictions. Permittees implement best management practices that specifically address low dissolved oxygen conditions, including the continued operation of an aeration bubbler at the Stockton Deep Water Channel at McLeod Lake. This aeration system was installed in 2006; effectiveness monitoring performed in 2008 indicated dissolved oxygen levels increased when operated. More recently, the City of Stockton upgraded their

wastewater treatment plant which has resulted in improvements in low dissolved oxygen concentrations in local surface waters.

- In 2007, the Permittees were required to develop and implement technical reports under Water Code section 13267 to clearly define the monitoring and assessment actions that must be implemented to meet existing TMDL requirements and address impairments identified on the CWA section 303(d) list. The Permittees submitted plans to the Central Valley Water Board that address pathogens, pesticides, methylmercury, and low dissolved oxygen.
- Central Valley Water Board staff reviewed the Permittees' violation histories and did not find that "hundreds of "cause and contribute" violations" had been issued. However, Central Valley Water Board staff routinely responds to complaints regarding illicit discharges and fish kills, coordinating with the Permittees to ensure complaints are adequately addressed and in compliance with permit requirements.

For comments pertaining to the Pathogens Plan, see Central Valley Water Board staff's response to Permittees' Comment 4.

### **Coalition Comment 2. Adequacy of Baseline Monitoring Requirements**

The Coalition comments that the proposed Baseline Monitoring (described in the Monitoring and Reporting Program, Provision III) is inadequate to assess pollutant sources, loading, or to identify best management practices necessary to address those sources and loadings. The Coalition further comments that Baseline Monitoring is designed to evaluate symptoms rather than causes of problematic discharges.

**RESPONSE:** Central Valley Water Board staff does not concur. The Monitoring and Reporting Program contains monitoring requirements consistent with regulations and necessary to evaluate compliance with this tentative Order and its provisions. The Monitoring and Reporting Program in this tentative Order includes four (4) monitoring subcomponents: urban discharge, receiving water, water column toxicity, and dry weather field screening, in addition to sediment toxicity, bioassessment, and a Water Quality Based Program. As part of the iterative process, collected data is used to assess existing water quality conditions related to pollutant sources, loading, and to implement best management practices to improve receiving water quality.

The Permittees have been implementing an effective long term monitoring program over the past three permit terms, monitoring storm events since 1992 and conducting dry weather field screening since 2004. The data collected are from sites with residential, commercial, industrial, and mixed land uses, encompassing a wide range of storm conditions, which has resulted in a robust dataset that describes local water quality conditions. The Permittees have collected water quality data used in the successful identification of pollutant sources, loading, and implementation of effective best management practices at the local scale.

### **Coalition Comment 3. Allowing Permittees to Reduce Some or All Local Water Quality Monitoring Only if a Regional Monitoring Program Provides Superior Information**

The Coalition comments that participation in a regional monitoring program may be complementary to the local water quality monitoring program in this tentative Order, but should not be considered unless the regional monitoring program provides a superior monitoring program. A superior monitoring program provided by a regional monitoring program should be designed to address pollutant sources and loads, and implementation of best management practices.

**RESPONSE:** Central Valley Water Board staff contends that the Delta RMP will be looking at pesticides, including pyrethroids, and the toxicity in Delta waters and will provide superior information than what is currently being done by the Permittees' local monitoring programs. The RMP will be looking at the health of the Delta and how constituents, such as pyrethroids, are affecting water quality, not just at one location but throughout the Delta. Local monitoring has been conducted for many years, and questions regarding the health of the Delta remain with respect to Delta Smelt and the Pelagic Organism Decline. Without a Delta RMP approach to the determination of regional water quality and the impacts of constituents throughout the Delta, these questions cannot be answered.

The tentative Order includes a monitoring program with two options: 1) conduct local water quality monitoring as prescribed; or 2) participate in the Delta RMP monitoring efforts, and reduce some local water quality monitoring. Other discharge monitoring and effectiveness assessment efforts will continue to guide storm water pollution control for the Permittees, even if some local water quality monitoring is reduced. The cumulative Delta RMP water monitoring is the missing piece, and is preferred at this time rather than continuing the local water quality monitoring which already has a robust 20 years of data. The local water quality monitoring being conducted on a permit-specific basis cannot effectively address region-wide issues. The Delta RMP gives the Board the opportunity to obtain organized water quality data for the Delta and its tributaries, which would otherwise be scattered.

The Delta RMP, combined with some local effluent monitoring, provides more useful data than local water quality monitoring alone.

The Delta RMP will provide objective, cost-effective information critical to understanding regional water quality conditions and trends to inform the Central Valley Water Board's decisions.

This limited term permit provides an option to participate in a regional monitoring program, such as the Delta Regional Monitoring Program, ahead of the Region-wide MS4 general permit. The Region-wide MS4 general permit will also propose an option for Permittees to participate in a regional monitoring program. As proposed, the Permittees may elect to participate in a regional monitoring program and reduce some of the local water quality monitoring required in the Monitoring and Reporting Program in this Tentative Order. The Permittees will continue some local water quality monitoring, such as urban discharge and effectiveness assessments, to guide storm water pollution

control. To ensure consistency with the Monitoring and Reporting Program of this tentative Order, reductions in local water quality monitoring require the Executive Officer's prior written approval as well as RMP Steering Committee action on a regional monitoring plan. Except in rare circumstances, the Permittees and the regional monitoring program would not be sampling for the same constituents at the same times and locations; therefore, monitoring will be meaningful and complementary at a minimum.

#### **Coalition Comment 4. Incorporating Specific Monitoring Requirements Proposed in Permittee's Report of Waste Discharge**

The Coalition comments this limited term tentative Order, including the Monitoring and Reporting Program, should incorporate the proposed monitoring program described in the Permittee's Report of Waste Discharge.

**RESPONSE:** Central Valley Water Board staff does not concur. The purpose of the tentative permit is to allow participation in an RMP. The Permittees may use this opportunity to implement a water quality monitoring program that meets the requirements of the proposed Order while integrating key elements described in their Report of Waste Discharge.

In addition, a Region-wide MS4 General Permit is proposed to be considered for adoption within 18 months. Once adopted, the Permittees will be required to modify their local water quality monitoring programs to comply with the Region-wide permit.

#### **Coalition Comment 5. Water Quality Based Plans, Pesticide Element**

The Coalition comments that the pesticide element of the Water Quality Based Program should include greater attention to the pyrethroid class of pesticides under this tentative Order.

**RESPONSE:** Central Valley Water Board staff contends that the Delta RMP will be looking at pesticides, including pyrethroids, and the toxicity in Delta waters and will provide superior information than what is currently being done by the Permittees' local monitoring programs. The RMP Steering Committee approved a Monitoring Design that will focus on mercury, pathogens, pesticides/toxicity, and nutrients. The RMP will be looking at the health of the Delta and how constituents, such as pyrethroids, are affecting water quality, not just at one location but throughout the Delta. Local monitoring has been conducted for many years, and questions regarding the health of the Delta remain with respect to Delta Smelt and the Pelagic Organism Decline. Without a Delta RMP approach to the determination of regional water quality and the impacts of constituents throughout the Delta, these questions cannot be answered.

In addition, the pesticide element of the Water Quality Based Programs is described in the Permittees' Pesticide Plan. The Permittees developed the first Pesticide Plan which focused on organophosphate pesticides, such as diazinon and chlorpyrifos. This Pesticide Plan was approved by the Central Valley Water Board in September 2004 and subsequently revised in June 2008. In 2009, the Permittees updated the Pesticide Plan

to extend pesticide specific outreach, coordinate with household hazardous waste collection agencies, and promote landscaping alternatives, including the implementation of an Integrated Pest Management program. This revised plan included control measures and performance standards that focused on pyrethroids, in addition to diazinon and chlorpyrifos. In coordination with the Pesticide Plan, the Permittees monitored for diazinon, chlorpyrifos, and pyrethroid pesticides in sediments during the previous permit term.