CVCWA
Central Valley Clean Water Association
Representing Over Fifty Wastewater Agencies

MICHAEL RIDDELL– Chair, City of Riverbank **TERRIE MITCHELL – Vice Chair, Sacramento Regional CSD**
CASEY WICHERT – Secretary, City of Brentwood **MARGARET ORR – Treasurer, City of Stockton**

March 20, 2015

Via Electronic Mail Only

James D. Marshall
Senior Water Resources Control Engineer
California Water Quality Control Board
Central Valley Region
11020 Sun Center Drive
Rancho Cordova, CA 95670-6114
RB5S-NPDES-Comments@waterboards.ca.gov

RE: Tentative Waste Discharge Requirements for the Nevada County Sanitation District No. 1, Cascade Shores Wastewater Treatment Plant, Nevada County

Dear Mr. Marshall:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to comment on the tentative Waste Discharge Requirements Order No. R5-2015-XXXX for the Nevada County Sanitation District No. 1 (District) Cascade Shores Wastewater Treatment Plant (Tentative Order). CVCWA is a non-profit association of public agencies located within the Central Valley region that provide wastewater collection, treatment, and water recycling services to millions of Central Valley residents and businesses. We approach these matters with the perspective of balancing environmental and economic interests consistent with state and federal law. In this letter, we provide the following comments regarding the effluent limit for mercury and the language in the Tentative Order related to the collection system.

I. Effluent Limitation for Mercury

The Tentative Order includes a final effluent limitation for total mercury of 0.0040 pounds/year, expressed as a total annual mass discharge.[1] The Fact Sheet explains that the maximum effluent concentration for mercury was 0.0013 µg/L, and that "the effluent discharge does not have reasonable potential to cause or contribute to an exceedance of the [California Toxics Rule] criteria for mercury."[2] Notwithstanding the fact that there is no reasonable potential to exceed the numeric criteria, the Fact Sheet states that an effluent limitation is necessary because mercury bioaccumulates in fish tissue, and therefore the discharge of mercury may contribute to the exceedance of the narrative toxicity objective. For these reasons, the Tentative Order includes an annual performance-based effluent limitation, calculated based on the monthly mass limitation included in the previous permit.

The reasoning supporting the imposition of a mercury limit is inadequate. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins* (Basin Plan) provides the policy for evaluating compliance with narrative water quality objectives. Pursuant to the Basin Plan, the Central Valley Regional Water Quality Control Board (Regional Board):

> [C]onsiders, on a case-by-case basis, direct evidence of beneficial use impacts, all material and relevant information submitted by the discharger and other interested parties, and relevant numerical criteria and guidelines developed and/or published by other agencies and organizations . . . In considering such criteria, the Board evaluates whether the specific numerical criteria, which are available through these sources and through other information supplied to the Board, are relevant and appropriate to the situation at hand and, therefore should be used in determining compliance with the narrative objective.[3]

Here, the Tentative Order imposes an effluent limit based on a potential exceedance of the narrative toxicity objective because mercury bioaccumulates and the discharge is located in the Central Valley. This is not the type of analysis required under the Basin Plan's Policy for Application of Water Quality Objectives. The Tentative Order regulates a high quality, low volume discharge to a receiving water that only has surface water flow during storm runoff periods.[4] It is highly unlikely that this discharge will have any effect on beneficial uses in the Delta. Thus, the statement that "the discharge of mercury to surface waters in the Central Valley draining to the Sacramento-San Joaquin Delta are being limited in order to protect the beneficial

[1] Tentative Order, p. 5.

[2] Tentative Order, p. F-34.

[3] Basin Plan, p. IV-17.00.

[4] Tentative Order, p. F-14.

uses of the Delta"[5] does not support the imposition of an effluent limit for this discharge to Gas Canyon Creek.

CVCWA respectfully requests that the effluent limit for total mercury be removed. The discharge does not have reasonable potential to exceed the applicable numeric criteria for mercury, and Tentative Order does not otherwise establish that the discharge has reasonable potential to exceed the narrative objective based on the factors listed in the Basin Plan.[6] Alternatively, if the Regional Board proceeds with imposing an effluent limit for mercury, it must include an analysis that is consistent with the requirement of the Basin Plan, including the necessary information for evaluating compliance with a narrative water quality objective.

II. Collection System Language

The Tentative Order includes language in the Fact Sheet regarding the collection system that is inconsistent with the language in the permit. Specifically, the permit requirements state that the collection system is subject to the requirements of the State Water Resources Control Board (State Board) Order No. 2006-0003-DWQ, the statewide General Waste Discharge Requirements for Sanitary Sewer Systems.[7] The Fact Sheet, however, states "[i]nasmuch that the Discharger's collection system is part of the system that is subject to this Order, certain standard provisions are applicable as specified in Provisions, section VI.C.5 . . . The Discharger must comply with both the General Order and this Order."[8] This language suggests that the collection system is subject to the waste discharge requirements order.

Sanitary sewer systems pose unique challenges for water quality regulation, and the State Board has adequately addressed these challenges in State Board Order No. 2006-0003-DWQ with which the District must comply. The Regional Board does not need to regulate collection systems further in the District's National Pollutant Discharge Elimination System (NPDES) permits. Not only does the inclusion of the collection system as part of the NPDES permit represent duplicative regulation, it subjects the District to possible third party lawsuits because any sanitary sewer overflow may violate the permit's Discharge Prohibitions.

CVCWA requests that the Regional Board delete the second paragraph of Section VI.B.5.b, on page F-56 of the Tentative Order, and replace the paragraph with the following language that the Regional Board has been using in other NPDES permits that it has issued recently:

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[5] *Id.*, p. F-34.

[6] See also 40 C.F.R. § 122.44(d)(1)(vi).

[7] Tentative Order, p. 15.

[8] *Id.*, p. F-56.

Furthermore, the General Order contains requirements for operation and maintenance of collection systems and for reporting and mitigating sanitary sewer overflows. The Discharger is enrolled under State Water Board General Order No. 2006-003-DWQ.[9]

We appreciate your consideration of these comments. If you have any questions or if CVCWA can be of further assistance, please contact me at (530) 268-1338 or eofficer@cvcwa.org.

Sincerely,

Debbie Webster

Debbie Webster,
Executive Officer

cc (*via email*): Pamela Creedon, Central Valley Regional Water Quality Control Board (pcreedon@waterboards.ca.gov)

[9] See, e.g., Order No. R5-2015-2011, p. F-56 (NPDES permit for Bear Valley Community Services District).