Heal the Bay

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March 28, 2008

Ms. Tracy Egoscue
Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Re: Comments on the Tentative Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit—City of Oxnard, Oxnard Wastewater Treatment Plant (NPDES Permit No. CA0054097)

Dear Ms. Egoscue:

On behalf of Heal the Bay, we submit the following comments on the Tentative Waste Discharge Requirements (WDRs) and National Pollutant Discharge Elimination System Permit (NPDES) for the City of Oxnard, Oxnard Wastewater Treatment Plant (NPDES Permit No. CA0054097). In general, we support the draft Permit. However, there are a few important issues we would like to address including the use of performance goals in place of effluent limitations, the relaxation of several performance goals, the decrease in monitoring frequency for 26 constituents, and the design of the fish tissue monitoring program. Below is a more specific list of issues and questions.

Performance Goals and Limits

Performance goals are extremely poor regulatory mechanisms, and thus, should be replaced with enforceable effluent limitations. Performance goals "are not considered as enforceable limitations or standards" (Tentative Permit at F-29), and an investigation of toxicity must be initiated only when an exceedance persists in "three successive monitoring periods" (Tentative Permit at F-31). What happens in the event that the Permittee exceeds a performance goal every other monitoring period? This appears to be a "loophole" that is not covered by the tentative permit. Under the Tentative Permit, the discharger may be exceeding Ocean Plan water quality objectives without being held accountable. How many performance goals were exceeded in the last permit cycle? What actions, if any, were taken by the Regional Board and the Permittee? Plainly, performance goals are extremely ineffective and should be replaced with effluent limitations that prevent backsliding and will ensure the Permittee takes appropriate actions to meet water quality objectives.

If the Regional Board fails to replace these ineffective performance goals with effluent limitations, it should, at a minimum, modify the performance goal provisions in the Tentative Permit that allow effluent quality to *decrease*. Several performance goals in the Tentative Permit have increased from the values in Order No. R4-2002-0129. For example, performance goals for arsenic, copper, lead, selenium, cyanide, chlorine residual, ammonia as N, endosulfin, endrin, tributyltin, and 2,4, 6-trichlorophenolare are all higher in the Tentative Permit. Perhaps most concerning are the constituents which have performance goals in the tentative permit which are higher than the effluent limitations they have under the current permit. These constituents include: bis(2-chloroethyl) ether, chlordane, DDT, 3,3'-Dichlorobenzidene, dieldrin, 1,2-Diphenylhydrazine, heptachlor, hexachlorobenzene, N-Nitrosodi-N-propylamine, PAHs, and toxaphene. In addition, the performance goals for DDT and chlordane are listed as different numbers in the tentative permit (page 17) and Attachment F (F-26). Judging from the calculations being used, it

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seems that the numbers listed in Attachment F are correct, and the ones in the Tentative Permit are typos, but this needs to be clarified.

Clearly, the performance goal calculation methodology is inappropriate, as it allows a discharger to decrease their effluent quality and does not allow for the most protective approach. For instance, for constituents where monitoring data have consistently shown nondetecable levels (less than 20 percent detectable data) over the designated monitoring period, the Regional Board sets the performance goal at five times the detectable limit (Tentative Permit at F-30). This calculation approach is inappropriate. The more conservative approach would be to set the performance goal *at the reporting limit*. Furthermore, why are there no performance goals established for daily maximums or instantaneous maximums? In addition, there is no performance goal listed for chromium in the tentative permit (Tentative Permit at 15), but later in the permit there is a performance goal of 8 µg/L described for chromium (VI) (Tentative Permit at F-30). Is the omission of the performance goal on page 15 a typo?

Effluent Monitoring Frequency

For 26 monitoring constituents,[1] the frequency of effluent monitoring decreases in the tentative permit compared to the current permit. The justification given is that "previous monitoring data for these pollutants indicate that the discharge did not demonstrate reasonable potential to exceed water quality standards" (Tentative Permit at F-34). Because the frequency is reduced from quarterly to semiannual monitoring for most of these constituents, it is less likely that exceedances will be detected if they do occur. In addition, sewage influent quality can vary considerably, especially in a quickly growing urban area like Oxnard. Thus, it is inappropriate to be relaxing the monitoring frequency and enforceable effluent limitations when the influent quality and flow to the plant is likely to change and vary. We recommend leaving the monitoring frequencies in the current permit untouched.

Whole Effluent Toxicity Testing

The Tentative Permit provides a 99 TUc "trigger" in accordance with State Board Order NO. WQO 2003-0012 which defers the issue of numeric chronic toxicity limits until a later date. The Regional Board should encourage the State Board to develop an appropriate numeric chronic toxicity limit as soon as possible. Too many major NPDES permits have gone forward without numeric effluent limits for chronic toxicity. As you would likely agree, toxicity limits are the safety net for NPDES permits because permits do not require monitoring or have limits for all constituents that can cause receiving water toxicity. An effluent limit of 99 TUc (1 TUc after initial dilution) would protect beneficial uses and meets the narrative toxicity objective set forth in the 2005 California Ocean Plan. Toxicity testing is the safety net for NPDES permits because permits do not require monitoring or have limits for all constituents that can cause receiving water toxicity.

Fish and Invertebrate Tissue Monitoring Program

We are concerned with the collection and analysis of the fish tissue samples collected annually for the fish tissue monitoring program. The tentative permit says that "*if possible*, for the duration of this permit and order, the same species shall be used at all stations" (Tentative permit at E-23). It then goes on to say that white croaker (*Genyonemus lineatus*) and Speckled sanddab (*Citharichthys stigmaeus*) are the recommended fish species. It is critical, for analysis and comparison purposes over time, that the

[1] ammonia nitrogen, arsenic, cadmium, chromium VI, copper, lead, mercury, nickel, silver, zinc, cyanide, chlorinated and non-chlorinated phenolic compounds, aldrin, dieldrin, chlordane, endrin, toxaphene, PAHs, acrylonitrile, bis(2-chloroethyl)ether, 3,3-dichlorobenzidine, 1,2-diphenyl-hydrazine, heptachlor, hexachlorobenzene, and n-nitrosodi-n-propylamine (Tentative Permit at F-33 to F-34.)

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monitoring program uses the same species. The permit specifies that the fish should be the same sex and uniform weight, but the language should be also *require* the same species be used. For example, Hyperion Waste Water Treatment Plant specifies the use of hornyhead turbot for its fish bioaccumulation monitoring (Order No. R4-2005-0020 at T-44). Specifically, we recommend deleting the phrase "if possible" from the sentence, "*if possible*, for the duration of this permit and order, the same species shall be used at all stations" (Tentative permit at E-23).

In addition, we would like to stress the importance of collecting tissue data for white croaker. As you know, due to the Superfund case addressing DDT and PCB contamination off the Palos Verdes Shelf, there has been substantial monitoring of fish tissue in Santa Monica Bay and San Pedro Bay. However, there has been very little monitoring of fish species, including white croaker, in Orange and Ventura counties. Over the next permit cycle, we recommend requiring a fish tissue study that includes three species, one being white croaker. The study design should be comparable to Los Angeles County Sanitation District's study. This information is imperative for developing appropriate fish consumption guidelines for Southern California.

Additionally, it is unclear in the tentative permit exactly where the reference specimens will be collected. The tentative permit specifies that fish and macroinvertebrates will be monitored at the 3 receiving water trawling stations of RWT-001 to RWT-003 (Tentative Permit at E-22). The permit then indicates that "three composite samples shall be analyzed for each of the tissue types (Tentative permit at E-24). Are the three composite samples collected from the three trawling stations? If so, then it would not be appropriate for the references specimens to be taken at the RWT-003, which is labeled as the "reference station" (Tentative Permit at E-24). RWT-003 cannot be both a reference station and a sampling station. This should be clarified in the permit.

Water Reuse

As discussed earlier, in a rapidly growing urban area like Oxnard, the demand on the Oxnard WWTP will likely inevitably increase quickly. Does the City of Oxnard have any plans for increasing the market for water reuse?

Thank you again for the opportunity to comment on this tentative permit. If you have any questions, please call 310-451-1500.

Sincerely,

Kirsten James
Water Quality Director

Charlotte Stevenson
Staff Scientist