

## **C. Response to Comments**

**California Regional Water Quality Control Board**  
**San Francisco Bay Region**  
**RESPONSE TO WRITTEN COMMENTS**

on December 2011 Tentative Order for  
North San Mateo County Sanitation District Wastewater Treatment Plant  
Daly City, San Mateo County

The Regional Water Board received written comments from the following parties on a tentative order distributed in December 2011 for public comment:

1. North San Mateo County Sanitation District
2. San Francisco Baykeeper

This response to their comments summarizes each comment in *italics* (paraphrased for brevity) followed by the Regional Water Board staff response. For the full content and context of each comment, refer to the comment letters. We also made a few staff-initiated changes to the tentative order, detailed below.

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**North San Mateo County Sanitation District**

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***District Comment 1: The District requests that the Table 7 footnote for the total chlorine residual mass emission limitation refer to peak dry weather capacity, not average dry weather capacity.***

*The peak dry weather capacity and permitted average dry weather flow is 8 million gallons per day (mgd); this is not the average dry weather capacity.*

**Water Board Staff Response**

We agree and revised the tentative order.

***District Comment 2: The District requests that the Effluent Characterization Study and Report requirements be revised for clarity and to reduce the burden on District staff.***

*The District reviews its effluent data for significant increases relative to past concentrations, as required in the existing permit. In addition, the District has an active pollution prevention program for identifying and reducing pollutants of concern upstream of the treatment plant. This information is transmitted to the Regional Water Board at least once per year. Extending this requirement to add an analysis following each pollutant scan is an unnecessary burden on the District's limited resources. The municipal wastewater treatment plant effluent does not change much over time.*

*The Bay Area Clean Water Agencies (BACWA) requested, through a letter dated August 8, 2011, that the Regional Water Board provide a choice of two reporting options to reduce the administrative burden of transmitting data and information in transmittal letters: (1) entering priority pollutant data directly into the eSMR system or (2) identifying, in eSMR transmittal*

*letters, results of any priority pollutant analyses at or above applicable water quality criteria. The District agrees with BACWA and requests that the tentative order be revised. The District believes Regional Water Board members support this approach. The District believes an even better option would be to remove this provision and indicate the sampling requirement only in the Monitoring and Reporting Program so all effluent monitoring requirements are in one place.*

### **Water Board Staff Response**

We disagree and did not revise the tentative order. With each permit reissuance, we analyze whether priority pollutants in the discharge have reasonable potential to cause or contribute to exceedances of water quality objectives. The intent of Provision VI.C.2 is to have the District verify that the “No Reasonable Potential” or “Cannot Determine Reasonable Potential” conclusions of this tentative order remain valid. Simply providing data in eSMR cannot serve this purpose because it provides only raw data without analysis. It is appropriate that the District evaluate its data to identify and respond to significant increases in pollutant discharges before applying for permit reissuance. For many dischargers in our region, this requirement is not new. We modified the Monitoring and Reporting Programs for many dischargers last year by means of March 10 and May 25, 2011, letters from the Executive Officer.

Allowing the District the option to report these data directly into eSMR may impose a greater burden on the District. Therefore, we simply require the District to confirm that it has collected the necessary data and tell us if any values exceed water quality criteria. Few data should ever exceed water quality criteria because, as the District claims, effluent data are not expected to change much over time, and, if concentrations exceed water quality criteria, there are already effluent limits and routine reporting to eSMR. Therefore, we believe the burden associated with this provision is minimal.

We note that this tentative order does not require the District to report values within one order of magnitude of the water quality criteria, only values at or above water quality criteria. We revised the text slightly to make this clear and to clarify that this sampling is to be completed once per calendar year.

***District Comment 3: The District requests that the Facility Location Topographic Map be revised to indicate the actual location of the treatment plant.***

*In Figure B-2 of the tentative order, the arrow indicating the treatment plant location is in the wrong place. The District has provided a corrected figure.*

### **Water Board Staff Response**

We agree and revised the tentative order.

***District Comment 4: The District requests that annual self-monitoring report requirements be revised to remove unnecessary reporting and to be consistent with other recent tentative orders.***

*In other recent tentative orders, modifications to Attachment G were included that replace certain requirements regarding when self-monitoring reports (SMRs) are to be submitted electronically. In this tentative order, fewer requirements were changed. Therefore, the District requests comparable language.*

## **Water Board Staff Response**

We agree and revised the tentative order. We also made non-substantive editorial changes consistent with other recent permits. In addition, as shown below, we moved text from MRP section VII.A to MRP section VII.D because this modification of Attachment G is best grouped with other modifications of Attachment G.

We revised MRP section VII.A as follows:

### **A. General Monitoring and Reporting Requirements**

The Discharger shall comply with all Federal Standard Provisions (Attachment D) and Regional Standard Provisions (Attachment G) related to monitoring, reporting, and recordkeeping, with modifications shown in section VII.D below, ~~and except Attachment G section V.C.1.c.3, which the following hereby supersedes:-~~

~~The Discharger shall report for each dioxin and furan congener the analytical result of effluent monitoring, including the quantifiable limit (reporting level), the method detection limit, and the measured concentration. The Discharger shall report all measured values of individual congeners, including data qualifiers. When calculating TCDD equivalents as defined in Definitions (Attachment A), the Discharger shall set congener concentrations below minimum levels (ML) specified in Attachment G Table A to zero.~~

We added text to section VII.D as follows and renumbered the other items listed there:

### **D. Modifications to Attachment G**

#### **1. Attachment G section V.C.1.c.3 is revised as follows.**

The Discharger shall report for each dioxin and furan congener the analytical result of effluent monitoring, including the quantifiable limit (reporting level), the method detection limit, and the measured concentration. The Discharger shall report all measured values of individual congeners, including data qualifiers. When calculating TCDD equivalents as defined in Definitions (Attachment A), the Discharger shall set congener concentrations below minimum levels (ML) specified in Attachment G Table A to zero.

*District Comment 5: The District requests correction of typographical errors. The District identified a number of typographical errors for correction.*

## **Water Board Staff Response**

We agree and revised the tentative order.

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## San Francisco Baykeeper

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### ***Baykeeper Comment 1: The tentative order should apply to all collection systems that connect to the North San Mateo Wastewater Treatment Plant.***

*Even though there are additional collection systems that may discharge to the North San Mateo Wastewater Treatment Plant, the tentative order covers only the collection system owned and operated by the District. For example, the service area includes the Town of Colma, but it is unclear whether the tentative order applies to the Colma City Collection System. According to the State Water Board's Sanitary Sewer Overflow (SSO) Database in the California Integrated Water Quality System Project (CIWQS), the Town of Colma has reported 2,595 gallons of SSOs from the Colma City Collection System in the past two years. These SSOs likely violated the District's former NPDES permit. Therefore, this collection system, along with any other collection systems that flow to the North San Mateo Wastewater Treatment Plant, should be subject to the requirements of this order.*

*Baykeeper believes all collection systems should be covered by federal NPDES permits, not just Waste Discharge Requirements (WDRs) issued pursuant to State law, because SSOs from these collection systems could reach waters of the United States. Baykeeper believes the decision to include one collection system and not another in an NPDES permit is arbitrary and unlawful. The tentative order should at least name and discuss any collection system that flows to the North San Mateo Wastewater Treatment Plant other than the one owned and operated by the District.*

### **Water Board Staff Response**

We disagree and did not revise the tentative order. We named only the District in the tentative order because only the District, not the satellite sewage collection systems, submitted a permit application, and because the District owns and operates the treatment plant that actually discharges to the Pacific Ocean. We agree that, by definition, a "treatment works treating domestic sewage" includes the treatment plant and its associated sewage collection system (40 CFR 122.2). Historically, however, only the portion of the system that is owned by the same agency that owns the treatment works has been subject to NPDES permit requirements. As the State Water Board concluded during the issuance of its statewide General WDRs for Wastewater Collection Systems, the theory that all publically owned treatment works NPDES permits be expanded to include all satellite sewage collection systems (or that owners or operators of these systems be permitted separately under the federal Clean Water Act) is not widely accepted, and U.S. EPA has issued no guidance to do this.

Based on this and the fact that California's Porter-Cologne Water Quality Control Act (Porter-Cologne) has a broader reach than the Clean Water Act to regulate a larger universe of potential discharges from sewage collection systems (for example, discharges to groundwater as well as surface water, potential discharges as well as actual discharges, discharges that do not reach waters, and discharges that do), the State Water Board chose to regulate collection systems under Porter-Cologne. We agree with this approach to regulating collection systems and see no benefit

to also regulating them through NPDES permits. Moreover, we cannot simply “add” parties to a permit without, at a minimum, affording those parties notice and an opportunity to comment.

We further note that, in 2008, U.S. EPA Region I proposed to include numerous separately owned and operated sewage collection systems within an NPDES permit for the Upper Blackstone Water Pollution Abatement District in Massachusetts. The U.S. EPA’s Environmental Appeals Board, however, determined that the region did not sufficiently articulate the factual and legal basis for including the collection systems and remanded the permit back to the region (*In Re Upper Blackstone Water Pollution Abatement District*, NPDES Appeal Nos. 08-11 to 08-18 & 09-06, *Order Denying Review in Part and Remanding in Part*, Decided May 28, 2010). On remand, the region chose to forego naming the collection systems.

### ***Baykeeper Comment 2***

***Table 7 should be revised to include an effluent limitation for Ammonia.***

*Table 7 is labeled “Effluent Limitations for CBOD, TSS, Total Chlorine Residual, and Ammonia,” but it does not contain an effluent limit for ammonia. It should be revised to include all effluent limitations.*

### **Water Board Staff Response**

We agree and revised the tentative order. Fact Sheet Table F-7 explains that there is no reasonable potential for ammonia; therefore, no effluent limits are necessary. We revised Table 7 to eliminate the reference to ammonia.

### ***Baykeeper Comment 3***

***The tentative order should prohibit all spills from wastewater collection systems.***

*Discharge Prohibition E is insufficient because it fails to prohibit SSOs that result in discharges of untreated or partially treated wastewater to California waters, not just waters of the United States. The Clean Water Act is not the only law that prohibits discharges of sewage – the California Water Code forbids all discharges to State waters that violate California water quality standards, precluding the Regional Water Board from authorizing such discharges. In addition, the Statewide WDRs prohibit overflows that create a public nuisance. Therefore, the Regional Water Board should revise Discharge Prohibition E to read, “Any sanitary sewer overflow that results in a discharge of untreated or partially treated wastewater to waters of the United States and the State of California is prohibited.” The Regional Water Board has authority to prohibit such discharges under California Water Code § 13243.*

### **Water Board Staff Response**

We disagree and did not revise the tentative order. There are several reasons not to add language prohibiting illicit discharges into “waters of the State” in addition to the “waters of the United States.”

1. The United States Court of Appeals for the 2<sup>nd</sup> District has called into question the states’ and U.S.EPA’s ability to regulate discharges that are only “potential” under an NPDES permit (*Waterkeeper Alliance v. U.S. EPA* (2005) 399 F.3d 486, 504-506). In that decision, the court held that U.S. EPA can only require permits for actual discharges. Here, sanitary sewer overflows are only a potential discharge, not an actual one.

2. Expanding the prohibition to encompass all sanitary sewer overflows regardless of their destination would diffuse the focus of the tentative order.
3. The Board's practice has been not to add the desired language.
4. Finally, and most importantly, the desired language is not needed because the sewage collection system is already adequately regulated by the statewide General WDRs for Wastewater Collection Systems, which specifically regulates discharges into "waters of the State." There is no need for redundant regulation. Moreover, the Board has ample authority to address any sewer spills from the collection system under Porter-Cologne, such as administrative civil liabilities and cease and desist orders.

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## Staff Initiated Changes

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In addition to making minor grammatical and formatting edits, we made the following staff-initiated changes to the tentative order:

We revised Attachment E, Section V.B.1(9) as follows to remove an unnecessary requirement:

### **B. Chronic Toxicity Reporting Requirements**

1. **Routine Reporting.** Toxicity test results for the current reporting period shall include, at a minimum, for each test:

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~~(9)~~ — NOEC and LOEC values for reference toxicant tests

~~(910)~~ IC<sub>50</sub> or EC<sub>50</sub> values for reference toxicant tests

~~(1011)~~ Available water quality measurements for each test (pH, dissolved oxygen, temperature, conductivity, hardness, salinity, ammonia)

We revised Attachment F, Section II.D. as follows to provide more information about the July 2011 total suspended solids (TSS) exceedances at the Plant:

### **D. Compliance with Numeric Effluent Limitations**

During the term of the previous Order, the Discharger reported nine violations of numeric effluent limitations, as listed below. The seven events occurring in July 2011 were the result of one incident at the Plant. They occurred during a multi-phase construction retrofit of the Discharger's three secondary clarifiers. On July 13 and 14, the Discharger prepared for a mock shutdown of the Return Activated Sludge (RAS) system in advance of replacing the RAS pumps, motor, and piping. When the Discharger returned the system to normal operation, it found the main RAS valve (due to be replaced on July 19) to be broken. As a result, the TSS samples on July 16, 17, and 18 were above effluent limits. On July 19, the Discharger replaced the valve and re-established compliance.

Regional Water Board staff is considering enforcement options. The Regional Water Board has not yet acted to enforce these violations.

We revised Attachment F, Section VII.B as follows to summarize monitoring requirements in a new table (for legibility, the table is not shown with underline):

**A. MRP Requirements (Provision VI.B)**

The Discharger is required to monitor the permitted discharges to evaluate compliance with permit conditions. Monitoring requirements are contained in the MRP (Attachment E), Standard Provisions (Attachment D), and Regional Standard Provisions (Attachment G). This provision requires compliance with these documents and is authorized by 40 CFR 122.41(h) and (j) and CWC sections 13267 and 13383.

The table below summarizes routine monitoring requirements. This table is for informational purposes only. Actual requirements are specified in the MRP and other applicable provisions of this Order.

**Table F-8. Monitoring Requirements Summary**

Parameter	Influent INF-001	Effluent EFF-001, EFF-001b, or EFF-002	Sludge and Biosolids	Receiving Water
Flow	Continuous	Continuous		
CBOD <sub>5</sub>	1/Week	1/Week		
TSS	2/Week	2/Week		
Oil and Grease		1/Quarter		
pH		1/Day		1/Year
Turbidity		1/Day		
Chlorine, Total Residual		1/Hour		
Chronic Toxicity		1/Year		
Enterococcus		1/Week		
Dissolved Oxygen		1/Day		1/Year
Temperature		1/Day		1/Year
Sulfides (if DO < 5.0 mg/L) Total and Dissolved		1/Day		
Total Ammonia as Nitrogen		2/Month		1/Year
Total Coliform				1/Year
Fecal Coliform				1/Year
Salinity				1/Year
TCDD Equivalents		1/Year		
Standard Observations		1/Day		
All Other Table B pollutants		1/Year		
Metric tons/year			See Attachment G Section III.B.1	
Arsenic, Cadmium, Copper, Mercury, Molybdenum, Nickel, Lead, Selenium, and Zinc			See Attachment G Section III.B.2.a	
Paint filter test			See Attachment G Section III.B.2.b	