



Bay Area Clean Water Agencies

Leading the Way to Protect Our Bay

A Joint Powers Public Agency

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Oakland, California 94623

March 2, 2009

VIA EMAIL

Ms. Adrienne V. Miller, Water Resources Control Engineer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Comments on Tentative Order Reissuing Fairfield-Suisun Sewer District NPDES Permit (CA0038024)

Dear Ms. Miller:

The Bay Area Clean Water Agencies (BACWA) appreciate the opportunity to comment on the Tentative Order (TO) for the Fairfield-Suisun Sewer District (FSSD), as well as make comments on policy issues related to the NPDES permit. BACWA members own and operate publicly-owned treatment works (POTWs) that discharge to San Francisco Bay and its tributaries. Collectively, BACWA members serve over 6.5 million people in the nine-county Bay Area, treating domestic, commercial and a significant amount of industrial wastewater. BACWA was formed to develop a region-wide understanding of the watershed protection and enhancement needs through reliance on sound technical, scientific, environmental and economic information and to ensure that this understanding leads to long-term stewardship of the San Francisco Bay Estuary. BACWA member agencies are public agencies, governed by elected officials and managed by professionals who are dedicated to protecting our water environment and the public health.

BACWA hopes that the following comments will result in changes made to the tentative order prior to issuance of the final NPDES permit for FSSD. Further, in order to avoid repetition, but to preserve these arguments, BACWA supports and incorporates by reference the comments made by FSSD in its comment letter.

1. BACWA objects to including numeric final limits for dioxin-TEQ.

BACWA requests that the dioxin-TEQ numeric final effluent limits be removed because there is no approved numeric water quality objective for dioxin-TEQ, it is unclear if POTWs will be able to meet this limit, and there are no analytical methods that can accurately detect dioxins at these levels. BACWA believes that the Regional Water Board has the discretion to maintain the narrative standard that exists in the San Francisco Bay Basin Plan because numeric effluent limitations are infeasible. *See* 40 C.F.R. §122.44(k)(3). There is no value in developing a

numerical standard at this time since dioxin-TEQ at these levels cannot be measured. The dioxin sources are air emissions and combustion, neither of which BACWA member agencies can control or prevent. *See Communities for a Better Environment v. SWRCB*, 109 Cal. App. 4th 1089, 1099 (2003).

2. BACWA requests the effluent description be advanced secondary treatment.

The effluent description and level of treatment in both Table 2 and Table F-2 should be “advanced secondary,” not “tertiary.” There are many different definitions of these terms, and it is important to remain consistent with other Regional Water Board documentation in describing the level of treatment at the wastewater treatment plant.

For example, the mercury watershed permit indicates the effluent description for this wastewater treatment plant as “advanced secondary” (page 3, page 8, page 17, page F-8, page F-17, page F-19, page F-28, page F-38, page F-39, and page F-40). Likewise, the Basin Plan amendment for the mercury Total Maximum Daily Load (TMDL) describes the level of treatment for this wastewater treatment plant as “advanced” (page BPA-12 and BPA-19). In addition, the Staff Report for the Copper Site-Specific Objectives document, which was approved by USEPA in January 2009, specifically describes the level of treatment for this wastewater treatment plant as advanced secondary (page 4-1 (multiple places) and page 4-3).

It’s possible that the term “tertiary” is being used in a recycled water context, but since the focus of the NPDES permit is the discharge to receiving waters, the term “advanced secondary” should be used for consistency in this context.

3. Prohibition III.B (Page 11) should be revised to be consistent with the Fact Sheet (Attachment F).

BACWA requests that more standard bypass language be included in the permit, consistent with the Fact Sheet of this permit, and consistent with the City of Millbrae’s permit adopted in August 2008. The language should be revised as follows:

- B.** The bypass of untreated or partially treated wastewater to waters of the United States is prohibited, except as provided for in Section I.G.2 of Attachment D of this Order the conditions stated in 40 CFR 122.41(m)(4) and in section A.13 of the Standard Provisions and Reporting Requirements for NPDES Surface Water Discharge Permits, August 1993 (Attachment G).

4. BACWA requests that maximum daily effluent limits for conventional pollutants be removed from the permit.

The effluent limitations for maximum daily biochemical oxygen demand (BOD) and total suspended solids (TSS) are no longer being issued in Region 2 POTW permits, consistent with federal regulations, and should be removed from the permit.

5. BACWA requests removal of the requirement for an ammonia minimum level (ML).

BACWA requests the removal of the ammonia ML (0.2 mg/L). The wastewater treatment plant's ammonia levels and limits are significantly higher than this figure. Ammonia is not a priority pollutant and therefore does not fall into the same category as metals and organics for the purposes of ML determinations. Other recent municipal wastewater treatment plant permits have also not included an ML for ammonia.

6. BACWA objects to Provision VI.C.d., Optional Mass Offset.

No regional mass offset programs currently exist in the San Francisco Bay Area. Even though the State Water Board directed Regional Water Board staff to develop such a program, there do not appear to be any plans in place to do so. Until such a program is developed with a feasible implementation strategy, BACWA believes this is not a realistic alternative, and it is misleading to expect that such a program would lead to compliance or that FSSD has the ability to implement one. Therefore, BACWA requests that this provision be deleted.

BACWA appreciates the Regional Water Board's close attention to the comments made herein. I would be more than happy to meet with you to discuss our comments and concerns in more detail as you wish.

Respectfully submitted,



Michele Pla
BACWA Executive Director

cc: BACWA Executive Board
Robert Cole, BACWA Permits Committee Chair
Bruce Wolfe, Regional Water Board
Lila Tang, Regional Water Board
Bill Johnson, Regional Water Board
John Madigan, Regional Water Board