

Bay Area Clean Water Agencies

Leading the Way to Protect Our Bay

A Joint Powers Public Agency

P.O. Box 24055, MS 702

Oakland, California 94623

February 10, 2009

VIA EMAIL

Mr. Vincent Christian, 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 the Delta Diablo Sanitation District NPDES Permit (CA0037547)

Dear Mr. Christian:

The Bay Area Clean Water Agencies (BACWA) appreciate the opportunity to comment on the Tentative Order (TO) for the Delta Diablo Sanitation District (DDSD), 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 DDSD. Further, in order to avoid repetition, but to preserve these arguments, BACWA supports and incorporates by reference the comments made by DDSD 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 that Finding Q pertaining to the Endangered Species Act (ESA) be deleted.

The Endangered Species Act is not applicable to this NPDES permit. The treatment plant was approved and constructed under the California Environmental Quality Act (CEQA), which took the ESA into account, and CEQA (under which the ESA would be considered for this permit) does not apply to this permit.

3. BACWA requests clarification of Prohibition III.A.

BACWA requests that prohibition language be made more specific to capture the intended meaning, and be consistent with Prohibition III.B. Language should be revised as follows:

A. Discharge of treated wastewater at a location or in a manner different from that described in this Order is prohibited.

The requested clarification distinguishes between discharges of treated wastewater from discharges such as sanitary sewer overflows which are specifically addressed in Item E of the Prohibitions and is consistent with recent permits such as that of the Sonoma Valley County Sanitation District.

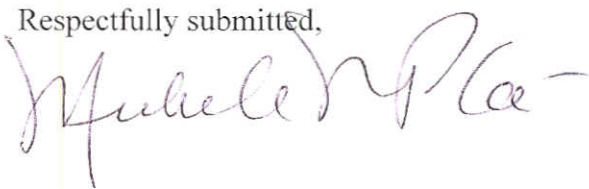
4. Prohibition III.C should be revised to be consistent with the Fact Sheet (Attachment F).

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. Language should be revised as follows:

The bypass of untreated or partially treated wastewater to waters of the United States is prohibited, except as provided for in 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 Section I.G.2 of (Attachment DG) of this Order. Routing flows to either the trickling towers or the aeration basins, but not both, is not considered bypass and is not a violation of this Order because the Discharger has dual biological treatment processes.

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