

VALLEY WATER MANAGEMENT COMPANY

7500 MEANY AVE.
BAKERSFIELD, CALIFORNIA 93308

November 8, 2013

Dane Johnson
Senior Geologist
Central Valley Regional Water Quality Control Board
1685 E Street
Fresno, CA 93706

Re: Response to Notice of Violation for Valley Water Management Company's
C-Plant Facility, Edison, Kern County

Dear Mr. Johnson:

Valley Water Management Company (VWMC) is in receipt of the October 9, 2013 Notice of Violation (NOV) and September 18, 2013 Inspection Report for its C-Plant Facility, and respectfully submits this response.

This facility is currently regulated by WDR No. 92-11037, which is a Notice of Applicability of general Order No. 92-110, a permit which has not been updated for over 21 years, since May 29, 1992. Order 92-110 at Discharge Specification B.1. requires that "[w]astewater effluent discharge to sumps that do not meet the prescriptive construction criteria for classified waste management units as specified in Chapter 15 shall not exceed" specified limits for specific electrical conductance, chloride, and boron. However, Order 92-110 at Provision B.2. also recognized that some dischargers may have wastewater effluent in excess of these levels and expressly provided a time schedule to "submit a plan for achieving compliance" in one of three (3) ways, subject to the concurrence of the Executive Officer of the Central Valley Regional Water Quality Control Board (CVRWQCB):

- 2.a. Design of a wastewater system to treat the wastewater to meet the numerical limitations of Discharge Specification B.1.
- 2.b. Retrofit the sumps to comply with current Chapter 15 construction standards for Class II surface impoundments; install monitoring systems in accordance with Article 5 of Chapter 15; and establish assurance of financial responsibility for closure, and for initiating and completing corrective action for all known and reasonably foreseeable releases from surface impoundments, in accordance with Articles 5 and 8 of Chapter 15.

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- 2.c. Demonstrate to the Board in public hearing that the proposed discharge will not substantially affect water quality or cause a violation of water quality objectives in accordance with Resolution No. 82-136.¹

On May 24, 1996, Valley Waste Disposal Company, the predecessor of VWMC, submitted a "Drilling and Data Acquisition Report, Race Track Hill District, Edison Oil Field, Kern County, California" to the CVRWQCB pursuant to Order No. 92-110, Discharge Specification B.2.c. The report and transmittal letter specified that this facility "does not pose a threat to ground water quality and that no further action should be required for continued operation of the site." That same transmittal letter stated "[i]f a public hearing is necessary to demonstrate that this facility does not pose a threat to ground water quality, then please consider this letter to be a request for that hearing." (Emphasis added.)

The CVRWQCB's June 13, 1996 Inspection Report for this facility at page 2 acknowledged that "Valley Waste Disposal recently submitted a report, *Drilling and Data Acquisition Report*, to demonstrate that C-Plant (Fee 34) will not affect water quality." Notwithstanding this acknowledgement and the clear request for a hearing, no hearing was ever held and no technical response letter was ever provided by the CVRWQCB. (See August 21, 2013 email from Ryan K. West, Engineering Geologist, CVRWQCB to Pam Ashby, VWMC.)

Therefore, even though VWMC fulfilled the permit's requirements regarding actions to be taken if wastewater effluent exceeded the specified limitations, the CVRWQCB failed to undertake its responsibility to hold a public hearing to timely effectuate the intent of the time schedule in the permit. Furthermore, the next 15 years of inspections failed to indicate there were any violations of the permit. For these reasons, VWMC takes issue with the NOV's allegation that "[d]ischarge of high salinity wastewater to sumps at the facility is a violation of the WDRs and poses a threat to groundwater." This allegation is contrary to evidence presented in the *Drilling and Data Acquisition Report* that the surface impoundments "do not pose a threat to ground water quality," and ignores the fact that most all of the sumps at the C-Plant are gunite-lined.

VWMC would also like to address the NOV's other allegation that two sumps "appear to have insufficient freeboard (approximately 1 foot of freeboard) and are in violation of the WDRs." VWMC has never had an overtopping event at this facility, and believes that the amount of freeboard maintained is sufficient. These sumps are operated by a weir system that doesn't allow for overflows, and would require entirely revamping the whole system to consistently maintain 2 feet of freeboard throughout the system. For these reasons, VWMC formally requests that the

¹ Resolution No. 82-136, a Basin Plan amendment for discharge of oil field wastewater, allows salinity concentrations in excess of the Basin Plan effluent limitations for discharges to surface waters. To qualify, the discharge cannot substantially affect water quality or cause a violation of water quality objectives. (RWQCB Order No. R5-2002-0052 at pg. 5, para. 23.)

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1992 permit or the Notice of Applicability be immediately modified to specify the freeboard requirements contained in VWMC's other permits, specifically:

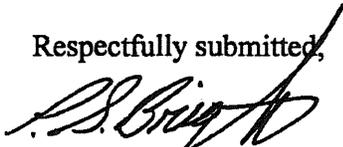
"The Discharger shall maintain the surface impoundments at all times to have sufficient freeboard to prevent overtopping due to conditions such as: heavy successive precipitation events, high velocity winds, or an increased volume of wastewater discharge."

(See accord Order No. R5-2002-0223 at pg. 7, Discharge Specification B.2; Order No. 5-01-024 at pg. 5, Discharge Specification B.2; Order No. 5-01-026 at pg. 5, Discharge Specification B.2; Order No. 5-01-028 at pg. 5, Discharge Specification B.2; Order No. 5-01-029 at pg. 6, Discharge Specification B.2.)

Should the CVRWQCB not agree with these interpretations or the request for immediate permit modification, VWMC requests the issuance of a Time Schedule Order under Water Code Section 13300 to provide VWMC with the time needed to conduct and complete studies to determine the area's background hydrogeology, to identify the beneficial uses and background quality of ground water within Edison area so that updated WDRs for this facility may be prescribed according to the site specific conditions of Sec. 34 near the C-Plant, and to provide clarity that VWMC may continue use of its sump system without fear of an enforcement action alleging non-compliance for this activity.

As stated previously in other letters on other facilities, VWMC is committed to maintaining facilities that are compliant with state requirements to protect useable groundwater, but since the current WDRs have been acknowledged for decades by the Regional Board to be outdated, VWMC would rather proceed in a cooperative manner to move forward with adopting new more applicable WDRs, than in an adversarial manner fighting through a contentious enforcement action.

Respectfully submitted,



Larry S. Bright