



# CVCWA

## CENTRAL VALLEY CLEAN WATER ASSOCIATION

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June 3, 2026

Via Email Only

California Regional Water Quality Control Board  
Central Valley Region  
[RB5S-NPDES-Comments@waterboards.ca.gov](mailto:RB5S-NPDES-Comments@waterboards.ca.gov)

Re: CVCWA Comment Letter – Tentative Notice of Applicability for Coverage Under Municipal General Order for City of Galt Wastewater Treatment Plant and Reclamation Facility

To the Central Valley Regional Water Quality Control Board:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to provide comments on the tentative Notice of Applicability for Coverage under the Municipal General Order for the City of Galt Wastewater Treatment Plant and Reclamation Facility (Tentative NOA). CVCWA is a nonprofit association of public agencies located within the Central Valley region that provide wastewater collection, treatment, and water recycling services to millions of Central Valley residents and businesses. We approach these matters from the perspective of balancing environmental and economic interests consistent with state and federal law.

### **A. Receiving Water Limitations**

The Receiving Water Limitations in the Tentative NOA are not consistent with the U.S. Supreme Court's decision in *City and County of San Francisco v. U.S. Environmental Protection Agency* (2025) 145 U.S. 704. While the Regional Water Board has addressed this ruling in recent tentative individual permits by excluding such provisions, the Board is taking an inconsistent approach with recently drafted tentative NOAs. The Board has provided no explanation for its inaction on amendment or reissuance of the Municipal General Order, which should be an immediate priority to ensure the Board's compliance with existing law.

The Board's failure to timely act places an unnecessary burden on permittees, who are left with inconsistent and unclear direction for compliance from the regulatory agency. Receiving water limits are not authorized under the Clean Water Act, and

continuing to include them in individual NOAs because the Regional Board has not acted to remove them from the Municipal General Order is unfair to the permittees that are enrolled under this Order. Permittees are faced with the question of whether to petition to review their NOA or face the risk of allegations of noncompliance with unlawful receiving water limits.

CVCWA requests that the receiving water limitations be removed and that the “Rationale for Receiving Water Limitations - Surface Water” on page 17 of the Tentative NOA be revised to be consistent with the Supreme Court decision, as follows:

On 4 March 2025, the U.S. Supreme Court issued a decision in the case of the *City and County of San Francisco vs. U.S. Environmental Protection Agency (2025)* 145 U.S. 704, ruling that “end result” provisions (e.g. receiving water limitations) are not allowed by the federal Clean Water Act and that NPDES permits must have specific requirements to meet water quality objectives and protect beneficial uses. The U.S. Supreme Court’s decision regarding surface water receiving limitations is being addressed by amendment or reissuance of the Municipal General Order.

## **B. Toxicity**

The Tentative NOA includes chronic whole effluent toxicity (WET) reporting requirements based on the Test of Significant Toxicity (TST). (See pp. 31-32, Appendix D.) The Court of Appeal, Fifth Appellate District ruled that TST is not an approved method for analyzing WET under the federal Clean Water Act and cannot be used in NPDES permitting (*Camarillo Sanitary District et al. vs. State Water Resources Control Board*, Superior Court No. 22CECG02195). The appellate ruling is currently under review by the California Supreme Court. However, without a final order otherwise, the TST permitting method should not be required.

If the Tentative NOA is not revised to remove the inclusion of TST, and the appellate ruling is upheld by the Supreme Court, the Board must take further action to reopen the final NOA to remove the TST requirement from the Monitoring and Reporting Program (Appendix D). The Board’s proposed approach to incorporate the TST methodology in the Tentative NOA while the appellate ruling is under review requires the Board’s commitment to *immediately* comply with any ruling to the contrary. Accordingly, without clarity as to whether reopening this matter can be made a top priority for the Board, CVCWA requests that the Tentative NOA be revised to remove TST as the applicable method for WET testing reporting requirements.

## **C. Test Species**

The Tentative NOA requires the City to conduct chronic toxicity tests with the water flea (*Ceriodaphnia dubia* or *C. dubia*) as the test species. In response to

stakeholder concerns, the Board previously committed to studying and investigating factors that influence test variability and low confidence in assessments of toxicity or non-toxicity using the *C. dubia* method, and delayed the implementation of effluent toxicity limitation. The consistency of *C. dubia* chronic tests is important to discharger compliance given the frequency of occurrence of samples deemed toxic using this testing method and the significant cost of compliance to address *C. dubia* chronic test results. Although the study resulted in recommendations for laboratory best practices, accreditation, and training, the study results also show that no single aspect of a culture or test procedure accounted for a significant portion of the variability observed. The Tentative NOA appropriately provides the Executive Officer with discretion to allow the temporary use of the next appropriate species as the most sensitive species. Unless and until laboratory performances using *C. dubia* chronic test results and recommendations improve, CVCWA recommends that the Tentative NOA identify an alternative test species, or that the Executive Officer exercise discretion to allow dischargers to use the next appropriate test species.

#### **D. Electrical Conductivity**

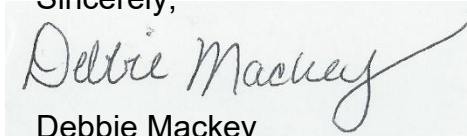
The Tentative NOA includes a calendar annual average performance-based effluent trigger for electrical conductivity (EC) of 880  $\mu\text{mhos/cm}$  based on a maximum calendar annual average electrical conductivity effluent of 875  $\mu\text{mhos/cm}$ . The included trigger is inconsistent with Table 23 of the Municipal General Order (Order R5-2023-0025, p. 103). A maximum annual average effluent EC of 875  $\mu\text{mhos/cm}$  would result in a trigger of 1,100  $\mu\text{mhos/cm}$ . Regardless, CVCWA supports and joins in the comment made by the City of Galt to correct the reported effluent annual average EC and reflect the actual highest effluent annual average EC for the facility.

#### **E. Comments by City of Galt**

CVCWA supports and joins the comments on the Tentative NOA submitted by the City of Galt.

We appreciate your consideration of these comments. If you have any questions or if CVCWA can be of any further assistance, please contact me at (530) 268-1338 or [eofficer@cvcwa.org](mailto:eofficer@cvcwa.org).

Sincerely,



Debbie Mackey  
Executive Officer

cc: [Danielle.Goode@waterboards.ca.gov](mailto:Danielle.Goode@waterboards.ca.gov)