



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

Office of Chief Counsel
1001 I Street, 22nd Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5161 ♦ FAX (916) 341-5199 ♦ <http://www.waterboards.ca.gov>

Arnold Schwarzenegger
Governor

September 26, 2008

CERTIFIED MAIL

James R. Wheaton, Esq.
Adam Lazar, Esq.
Environmental Law Foundation
1736 Franklin Street, Ninth Floor
Oakland, CA 94612
wheaton@envirolaw.org
lazar@envirolaw.org

Mr. Bill Jennings, Executive Director
California Sportfishing
Protection Alliance
3536 Rainier Avenue
Stockton, CA 95204
deltakeep@aol.com

Dear Messrs. Wheaton, Lazar and Jennings:

PETITION OF ENVIRONMENTAL LAW FOUNDATION (WASTE DISCHARGE REQUIREMENTS ORDER NO. R5-2007-0036 [NPDES NO. CA0079154] AND TIME SCHEDULE ORDER NO. R5-2007-0037 FOR CITY OF TRACY) AND CALIFORNIA SPORTFISHING PROTECTION ALLIANCE (WASTE DISCHARGE REQUIREMENTS ORDER NO. R5-2007-0036 [NPDES NO. CA0079154] AND TIME SCHEDULE ORDER NO. R5-2007-0037 FOR CITY OF TRACY), CENTRAL VALLEY WATER BOARD: BOARD MEETING NOTIFICATION

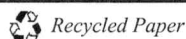
SWRCB/OCC FILE A-1846(a) and A-1846(b)

Enclosed is a copy of the proposed order in the above-entitled matter. The State Water Resources Control Board (State Water Board) will consider this order at its meeting that will be held on *Tuesday, November 4, 2008* commencing at *10:00 a.m.* in the Coastal Hearing Room, Second Floor of the Cal/EPA Building, 1001 I Street, Sacramento, California. You will separately receive an agenda for this meeting.

At the meeting, interested persons will be allowed to comment orally on the draft order, subject to the following time limits. The petitioner, Environmental Law Foundation, discharger, City of Tracy, and the Central Valley Regional Water Quality Control Board will each be allowed five minutes for oral comment, with additional time for questions by the State Water Board members. Other interested persons will be allotted a lesser amount of time to address the State Water Board. At the meeting, the State Water Board may adopt the draft order as written or with revisions, it may decide not to adopt the order, or it may continue consideration until a later meeting.

All comments shall be based solely upon evidence contained in the record or upon legal argument. Supplemental evidence will not be permitted except under the limited circumstances described in California Code of Regulations, title 23, section 2050.6. Written comments on the

California Environmental Protection Agency



draft order and any other materials to be presented at the meeting, including power point and other visual displays, must be received by **12:00 noon, October 27, 2008**. Please indicate in the subject line, comments to A-1846(a) and A-1846(b) —November 4, 2008 Board Meeting. Those comments must be addressed to:

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100
(tel) 916-341-5600
(fax) 916-341-5620
(email) commentletters@waterboards.ca.gov

If there are any questions or comments, please contact Steven H. Blum, Senior Staff Counsel, in the Office of Chief Counsel, at (916) 341-5177 or email sblum@waterboards.ca.gov.

Sincerely,



Michael A.M. Lauffer
Chief Counsel

Enclosure

cc: **All w/enclosure and w/o ip list**

Melissa A. Thorme, Esq.
Downey Brand LLP
555 Capitol Mall, Tenth Floor
Sacramento, CA 95814
mthorme@downeybrand.com

Debra E. Corbett, Esq.
City Attorney
333 Civic Center Plaza
Tracy, CA 95376
attorney@ci.tracy.ca.us

(Continued next page)

Mr. Steven G. Bayley
Deputy Director of Public Works
City of Tracy
3900 Holly Drive
Tracy, CA 95304
steve.bayley@ci.tracy.ca.us

Andrew Packard, Esq.
Law Office of Andrew Packard
319 Pleasant Street
Petaluma, CA 94952
Andrew@packardlawoffices.com

cc: (Continued)

Mike Jackson, Esq.
Law Office of Mike Jackson
P.O. Box 207
429 West Main Street
Quincy, CA 95971
mjatty@sbcglobal.net

Ms. Kathi Moore, Chief **[via email only]**
moore.kathi@epa.gov
NPDES Enforcement
U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Ms. Pamela C. Creedon **[via email only]**
Executive Officer
Central Valley Regional Water Quality
Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

Mr. James D. Marshall **[via email only]**
Associate Water Resources Control
Engineer
Central Valley Regional Water Quality
Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

Lori T. Okun, Esq. **[via email only]**
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100

Mr. Doug Eberhardt, Chief **[via email only]**
eberhardt.doug@epa.gov
Permits Office
U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Mr. Loren Harlow **[via email only]**
Assistant Executive Officer
Central Valley Regional Water Quality
Control Board, Fresno Office
1685 E Street
Fresno, CA 93706-2020

Mr. James Pedri **[via email only]**
Assistant Executive Officer
Central Valley Regional Water Quality
Control Board, Redding Office
415 Knollcrest Drive
Redding, CA 96002

Patrick Pulupa, Esq. **[via email only]**
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100

Interested Persons

Lyris List

Inter-Office Service List **[via email only]**

DRAFT

September 26, 2008

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WQ 2008-

In the Matter of the Petition of
**ENVIRONMENTAL LAW FOUNDATION
AND
CALIFORNIA SPORTFISHING PROTECTION ALLIANCE**

For Review of Waste Discharge Requirements Order No. R5-2007-0036 and
Time Schedule Order No. R5-2007-0037

[NPDES No. CA0079154] for the
City of Tracy Wastewater Treatment Plant,
San Joaquin County

Issued by the
California Regional Water Quality Control Board,
Central Valley Region

SWRCB/OCC FILE A-1846(a) and A-1846(b)

BY THE BOARD:

On May 4, 2007, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) issued Waste Discharge Requirements Order No. R5-2007-0036 and Time Schedule Order No. R5-2007-0037 [NPDES No. CA0079154] for the City of Tracy Wastewater Treatment Plant. Environmental Law Foundation and California Sportfishing Protection Alliance (CALSPA) filed a timely petition for State Water Resources Control Board (State Water Board) review of the order.

State Water Board regulations generally require final action on a petition within 270 days of the date that the petition is deemed complete. (Cal. Code Regs., tit. 23, § 2050.5, subd. (a).) The petitions were complete on February 21, 2008; consequently, the time limit for formal disposition is November 17, 2008.

If the State Water Board has not made a formal disposition of a petition within the 270-day period, the Board's regulations deem the petition denied. (Cal. Code Regs., tit. 23, § 2050.5, subd. (b).) The denial of a petition for review would ordinarily require a petitioner to file any judicial challenge within 30 days of the denial. (See Wat. Code, § 13330, subd. (b).) When the State Water Board anticipates addressing a petition on the merits after the period for review passes, it may indicate that it will review the matter on its motion to avoid unnecessary or premature litigation.

DRAFT

September 26, 2008

The State Water Board anticipates issuing an order addressing some issues raised in the petition, but not by November 17, 2008. Therefore, the State Water Board has decided to review the Tracy order on its own motion. (See Wat. Code § 13320, subd. (a); Cal. Code Regs., tit. 23, § 2050.5, subd. (c).)

ORDER

IT IS HEREBY ORDERED that the State Water Board will review Order No. R5-2007-0036 and Time Schedule Order No. R5-2007-0037 [NPDES No. CA0079154] on its own motion.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 4, 2008.

AYE:

NO:

ABSENT:

ABSTAIN:

DRAFT

Jeanine Townsend
Clerk to the Board