

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – OFFICE OF CHIEF COUNSEL
NOVEMBER 4, 2008**

ITEM 6

SUBJECT

PETITION OF ENVIRONMENTAL LAW FOUNDATION AND CALIFORNIA SPORTFISHING PROTECTION ALLIANCE FOR REVIEW OF WASTE DISCHARGE REQUIREMENTS ORDER NO. R5-2007-0136 AND TIME SCHEDULE ORDER NO. R5-2007-0037 ISSUED TO THE CITY OF TRACY WASTEWATER TREATMENT PLANT, SAN JOAQUIN COUNTY, BY THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD (SWCRCB/OCC FILE A-1846(A) AND (B)). THE STATE WATER RESOURCES CONTROL BOARD WILL CONSIDER ISSUING AN ORDER TO REVIEW THE PETITION ON ITS OWN MOTION.

DISCUSSION

The State Water Resources Control Board (State Water Board) regulations require that the State Water Board take final action on the Environmental Law Foundation and California Sportfishing Protection Alliance petitions by November 17, 2008. The State Water Board anticipates adopting an order on some of the issues raised in the petition but not by the November 17, 2008 deadline. This order, therefore, proposes to have the State Water Board review the Tracy permit on its own motion.

POLICY ISSUE

Should the Water Board review the Tracy Permit on its own motion?

FISCAL IMPACT

None.

REGIONAL BOARD IMPACT

None.

**STAFF RECOMMENDATION or
ADVICE OF STAFF ACTION**

Adopt the Proposed Order.

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