
North Coast Regional Water Quality Control Board

**Response to Comments
Town of Scotia Company, LLC, Wastewater Treatment Facility and
Eel River Power, LLC, Steam Electric Power Plant
WDID No. 1B83104OHUM
Order No. R1-2012-0015**

Five comment letters were received regarding the January 19, 2012 draft Waste Discharge Requirements/NPDES permit for the Town of Scotia Company, LLC, Wastewater Treatment Facility and Eel River Power, LLC, Steam Electric Power Plant. The letters were received from:

- A. Eel River Power, LLC, February 17, 2012 letter signed by Charles Abbott, Vice-President, Operations
- B. Town of Scotia Company, LLC, February 17, 2012 letter signed by Frank Shaw Bacik, President
- C. Eel River Power, LLC, April 2, 2012 requested edits and letter signed by Charles Abbott, Vice-President, Operations
- D. Town of Scotia Company, LLC, April 2, 2012 e-mail signed by Frank Shaw Bacik, President
- E. Eel River Power, LLC, April 5, 2012 requested edits and letter signed by Christopher M. Sanders, Legal Counsel.

The correspondence identified as A through E have been attached to this response (Attachments A through E) and comments contained therein summarized below.

A. Eel River Power, LLC – Letter dated February 17, 2012

Comment 1: Historically, operations of the wastewater treatment facility (WWTF) and power plant were conducted under a single ownership; as such the Regional Water Board issued a single permit for both the WWTF and the power plant. Since the last permit renewal in 2006, the Town of Scotia Company LLC (TOS) and Eel River Power, LLC (ERP), two legally distinct entities, have assumed responsibility for the WWTF and the power plant, respectively. While there are still operations that have yet to be separated, ERP requests that the permit recognize the WWTF and the power plant as legally separate entities and remove ERP from the proposed National Pollutant Discharge Elimination System (NPDES) permit. Instead ERP requests that power plant discharges be regulated in accordance with state authority to issue waste discharge requirements (WDRs) asserting that the storage pond to which the power plant discharges is a water of the state, not a water of the United States.

Response: The Regional Water Board staff met with ERP and TOS representatives on March 28, 2012 to discuss this request. During discussions, Eel River Power clarified the intent of their request and agreed to put that clarification in writing. Proposed edits to the NPDES permit were received on April 2, 2012 with further clarification provided April 5, 2012. Staff considered all requests, proposals and comments related to this issue which ultimately resulted in no change to the draft NPDES permit. A summary of the April submissions and staff's responses are described in greater detail under sections C through E below.

Comment 2: The draft permit has a provision that requires Bottom and Fly Ash generated at the power plant is stored in a Title 27 compliant area until it can be disposed at a permitted facility or in a manner approved by the Executive Officer. ERP believes it can develop an appropriate plan to effectively utilize the Fly Ash without having to dispose of the material. Similarly, ERP also requests time to prepare a Bottom Ash Management Plan. Specifically, ERP requests language that would allow eighteen months to develop and submit the necessary documents for approval. In addition, ERP requests that in the interim the discharge of fly and bottom ash would not be considered a violation of the Order.

Response: The Regional Water Board has no authority to sanction unpermitted discharges of waste even for interim periods. Section VI.6.b. of the draft Order has been amended as shown below, to allow the 18 months requested for development of fly and bottom ash management plans. During the interim period, all fly and bottom ash generated at the Eel River power plant facility must be stored in a title 27 compliant manner until it can be either disposed at a permitted solid waste facility or in a method approved by the Regional Water Board.

b. Power Plant Solids Disposal and Handling Requirements.

- i. Bottom and Fly Ash generated at the Power Plant facility shall be stored in a title 27 compliant area until it can be either disposed of at a solid waste facility for which waste discharge requirements have been prescribed by a Regional Water Board, or disposed of or reused in a manner approved by the Regional Water Board.
- ii. No later than December 4, 2013, Eel River Power, LLC shall submit a complete application to the Regional Water Board for either beneficial reuse or permitted disposal of both fly ash and bottom ash associated with the Power Plant.
- iii. Collected screenings, sludges, and other solids (including residual solids that collect in storage tanks) shall be disposed of at a legal solid waste disposal facility. Solid waste disposal sites used in California shall be regulated by waste discharge requirements prescribed by the Regional Water Board.

Comment 3: The draft Order contains monitoring requirements and effluent limitations for the rock wood separator effluent, a waste stream not previously monitored or

regulated. This new Discharge Monitoring Point is identified as 017. Since this waste stream was not previously regulated, ERP has some concern whether the stream will be in immediate compliance without some form of treatment. ERP requests one year to evaluate the discharge, determine whether treatment or process modifications are necessary to achieve compliance, and if modifications are necessary, to implement those modifications.

Response: Given that Eel River Power has known about the imposition of effluent limitations since January 2012, six months from the effective date of the proposed Order provides reasonable time for the Discharger to collect data, devise, and implement necessary modifications in order to meet requirements at Discharge Point 017. Therefore Section IV.7 Final Effluent Limitations – Discharge Point 017 will become effective on December 4, 2012.

Comment 4: ERP supports the continued reuse of water from the storage pond for dust control.

Response: The proposed Order has been modified to incorporate regulation of this ongoing activity. Comments and permit modifications associated with water recycling and reuse are discussed in detail under section B. Comment 9 below.

Comment 5: Approximately 9500 GPM of cooling water from the storage pond is circulated through the condenser associated with Turbine Generator 3 and discharged back to the pond at Discharge Point 016. No chemicals are added to this once through cooling water. The flow rate listed in the draft Order is 600 GPM. This appears to have been an error in the prior permit. In addition, the monitoring plan requires monthly sampling for chlorine, but no chlorine is added to this flow stream. ERP requests that the flow be adjusted to reflect the system's design flow and that the requirement for chlorine sampling for Discharge Point 016 be eliminated.

Response: Corrections and modifications have been made throughout the draft Order and Fact Sheet to recognize once through cooling water flows of 9500 gallons per minute and the elimination of chlorine monitoring. Corrections include updating text, tables and the flow diagram included as Attachment C-2 of the Order.

Comment 6: ERP requests that Table F-3 be updated to reflect the chemicals currently used in its treatment program.

Response: As shown below, Table F-3 of the proposed Order has been updated to reflect current chemicals used in Power Plant water treatment processes.

Table F-3. Chemicals Added to Power Plant Process Waters

System Component	Product Name(s)	Chemical Name(s)	Primary Function
Reverse Osmosis System	CWT5236	Phosphonate	Scale Inhibitor

Table F-3. Chemicals Added to Power Plant Process Waters

System Component	Product Name(s)	Chemical Name(s)	Primary Function
Reverse Osmosis System	BWT2108	Sodium Bisulfite	Chlorine Scavenger
Reverse Osmosis System	RoQuest™ 4500	Ferric Salt/Cationic Polymer	Coagulant
Boiler System	BWT2294	Sodium Hydroxide Sodium Tripolyphosphate	Boiler Water Treatment
Boiler System	BWT2158	Carbohydrazide	Oxygen Scavenger
Steam Line	CRT3030	Cyclohexylamine Monoethanolamine Methoxypropylamine	Condensate Treatment
Cooling Towers	CWT5668	N/A	Cooling Water Treatment
Cooling Towers	CWT5806	Sodium Tolyltriazole	Scale and Corrosion Inhibitor
Cooling Towers	NALCO 73550	Nonionic Alkyl Polyglycoside	Clean Tower Biodetergent
Cooling Towers	NALCO 73551	Polyalkylene glycol	Deposit Penetrant
Cooling Towers	Sodium Hypochlorite	Sodium Hypochlorite Sodium Hydroxide	Biocide
Cooling Towers	Sulfuric Acid	Sulfuric Acid	pH Control

B. Town of Scotia Company – Letter dated February 17, 2012

Comment 7: The Scotia Community Services District (SCSD) is an entity that does not yet exist. The SCSD will, eventually, be constituted by TOS, but that time is not yet determinable. Therefore the SCSD cannot serve as a permitted party at this time. If and when the CSD is formed and functioning, TOS would plan to convey the WWTF to such an entity under terms and conditions authorized by the Humboldt Local Agency Formation Commission (LAFCo) and TOS would file a Notice of Transfer and Name Change to the Regional Water Board.

Response: The proposed Order has been updated to reflect Town of Scotia Company, LLC (TOS) as the Permittee rather than Scotia Community Services District.

Comment 8: There may be other regulatory means to provide oversight and require monitoring and reporting of power plant discharges which have the potential to impact water quality objectives under the NPDES permit. From the perspective of TOS, as long as the power plant's discharges are regulated, consistent with the constraints, authorizations, standards and prohibitions which govern TOS' WWTF, and those standards are enforceable by the Board, we have no particular objection to the use of

some regulatory means other than the “joint NPDES permit” approach proposed in the January 19, 2012 draft Order.

Response: As stated above, Regional Water Board staff met with ERP and TOS representatives on March 28, 2012 to discuss this issue. Response to comment and resulting modifications to the draft Order are described in greater detail under section E. Comment 14 below.

Comment 9: TOS requests authorization for limited reuse of water from the log pond for dust abatement in the industrial areas in and around the Town of Scotia. This use, undertaken historically, constitutes one means for managing and monitoring water balance in the storage pond during the discharge prohibition season.

Response: It is appropriate to impose regulatory oversight and requirements for the ongoing reuse of storage pond water for dust suppression in industrial areas in and around the Town of Scotia. In addition to a brief description of this activity in the Fact Sheet, a map of the allowable areas for application of reused water has been incorporated in the proposed Order as Attachment C-4. The following requirements have been incorporated into section IV.D of the proposed Order:

D. Reclamation Specifications

1. Recycled water from the storage pond shall be used only in amounts necessary for dust control on roads and streets, shall not produce runoff, and shall be limited to areas within the areas specified on the map contained in Attachment C-3.
2. The Discharger shall comply with applicable state and local requirements regarding the production and use of reclaimed wastewater, including requirements of California Water Code (Water Code) sections 13500 – 13577 (Water Reclamation) and Department of Health Services (DHS) regulations at title 22, sections 60301 – 60357 of the Cal. Code of Regs (Water Recycling Criteria).
 - a. The use of recycled water shall not create a condition of pollution or nuisance as defined in Water Code section 13050(m).
 - b. Recycled water and airborne spray shall not be allowed to escape from the authorized recycled water use area(s).
 - c. Direct or windblown spray, mist, or runoff from irrigation areas shall not enter dwellings, designated outdoor eating areas, or food handling facilities.
 - d. Disinfected secondary treated recycled water shall not be irrigated within 100 feet of any domestic water supply well or domestic water supply

surface intake, unless the technical requirements specified in title 22, Cal. Code of Regs., section 60310(a) have been met and approved by DHS.

- e. All areas where recycled water is used that are accessible to the public shall be posted with signs that are visible to the public, in a size no less than 4 inches high by 8 inches wide, and that include the following wording: 'RECYCLED WATER – DO NOT DRINK'. Each sign shall display an international symbol similar to that shown in title 22, Cal. Code of Regs, Figure 60310-A. These warning signs shall be posted at least every 500 feet with a minimum of a sign at each corner and access road.
3. The Discharger shall maintain compliance with effluent limitations at Discharge Point 012.

Comment 10: TOS requests an allowance for storage pond dam safety requirements that may prohibit TOS from being able to effectively reduce discharges from the log pond to meet the 1% flow rate limitation when discharging to the Eel River without violating freeboard constraints. In addition to effluent from the WWTF and power plant, the storage pond receives a significant amount of stormwater from direct rainfall as well as inputs from a variety of adjacent drainage areas. This additional stormwater input may increase the need to discharge from the storage pond in excess of the 1% flow rate limitation, specifically during the fall shoulder period when river levels are still rising in response to accumulated rainfall in the larger watershed.

Response: In the absence of flow monitoring data at Discharge Point 003, the request for an 'allowance' to discharge in excess of 1% of the Eel River flow is premature. Should ongoing monitoring data suggest chronic violation of the 1% discharge requirement at Discharge Point 003, Regional Water Board staff will work with TOS to evaluate potential options to resolve the issue.

Comment 11: TOS requests the influent flow rate limitation for the WWTF be either removed from the discharge prohibition section or be revised to reflect a monthly average limitation because they have upgraded the pumps at the WWTF to handle increased flows in excess of the 0.77 MGD.

Response: Section III of the proposed Order has been modified as shown below:

- L. The monthly average flow of waste into the Discharger's WWTF in excess of 0.77 MGD, is prohibited.

C. Eel River Power, LLC – Underline Strikeout Edits and Letter dated April 2, 2012

Comment 12: In summary, the April 2 correspondence provided suggested changes in the form of underline and strikeout to portions of the draft NPDES permit distinguishing the storage pond, which receives discharges from the power plant, as a portion of the Town of Scotia treatment process, not as a conveyance to waters of the United States.

Response: Regional Water Board staff requested that Eel River Power provide a brief articulating the statutory and regulatory basis for the suggested changes.

D. Town of Scotia Company, LLC – E-Mail dated April 2, 2012

Comment 13: TOS comments on ERP's (Greenleaf) requests to modify permit references to the Eel River or to surface waters to which TOS discharges, be changed to indicate that these receiving waters meet the criteria for classification as waters of the United States. TOS does not agree with ERP that legal conclusions, terms of art or definitions regarding Town of Scotia's regulated activities need to be modified or inserted.

Response: Section I.B of the Fact Sheet clearly defines the Eel River as a water of the United States. Specific reference to the Eel River in other sections of the permit as a surface water does not affect a change in the designation of this water body.

E. Eel River Power, LLC – Explanation of Requested Changes dated April 5, 2012

Comment 14: ERP asserts that the power plant does not discharge to waters of the United States because effluent from the power plant discharges first to the log [storage] pond, owned and operated by TOS. ERP states that discharges into the storage pond are further treated by a clarifier prior to discharging to the Eel River at Discharge Point 003; and that this discharges (Discharge Point 003) is the sole discharge subject to provisions of the Clean Water Act. Further, ERP asserts that the Regional Water Board has fulfilled the obligation to protect water quality through the existing waste discharge requirements [NPDES permit], which names only TOS as a Discharger; and protects groundwater as an ancillary benefit by implementing limits and monitoring for protection of surface water beneficial uses.

Response: As rationale for why the power plant does not discharge to waters of the United States, ERP cites the federal regulations at Code of Federal regulations, title 40, Part 122.2 (40 CFR 122.2), which defines waters of the United States. The definition includes the following language, "Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA [emphasis added] (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States." ERP also cites the federal definition: "*treatment works treating domestic sewage* means a POTW or any other sewage sludge or waste water treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage" (40 CFR 122.2).

Although we agree that the TOS pond is used for storage of treated domestic effluent, Regional Water Board staff does not agree that the storage pond or the clarifier which it precedes were designed to meet requirements of the Clean Water Act. Rather, the storage pond was originally designed to store and float logs for the former mill at Scotia.

The clarifier, which is currently in a grave state of disrepair, is in no way designed to provide additional treatment for discharges of conventional or priority pollutants regulated under the current or draft Order. The clarifier is a legacy component of former log milling activities, through which, as a matter of convenience, water from the storage pond continues to flow during the discharge season. The storage pond is also a legacy feature, which is now allowed to provide a contemporary service. The storage pond is a conveyance which provides temporary storage of not only effluent from the wastewater treatment facility, but also for power plant effluent, power plant storm water, and other storm water sources prior to discharge at Discharge Point 003.

In the context of ERP discharges entering a POTW, Regional Water Board staff has reviewed federal pretreatment requirements. The purpose of the federal pretreatment program is to regulate nondomestic discharges [Indirect Discharges] to municipal domestic wastewater treatment plants. This operation of the pretreatment program is described in the pretreatment program regulations at 40 CFR 403.3 in pertinent part:

(o) The term Publicly Owned Treatment Works or POTW means a treatment works as defined by section 212 of the Act, which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant [emphasis added] The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to [emphasis added] and the discharges from such a treatment works.

(p) The term POTW Treatment Plant means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

Although this may change once a community services district is formed, under the existing conditions, TOS is not a municipality but a privately owned business and as such lacks the authority to have regulatory jurisdiction over indirect discharges into any portion of the treatment works. At the time the existing permit was drafted, all sources of effluent and storm water were held in ownership and operated by solely by TOS. Now that ownership of the power plant is held by ERP, it is appropriate that ERP also be named as a Discharger and directly responsible for waste discharges in accordance with applicable regulations in accordance with the Porter Cologne Water Quality Control Act and the Clean Water Act.

Regional Water Board staff will be happy to work with ERP and TOS or a yet to be constituted Scotia CSD during the forthcoming permit cycle to continue evaluating alternative permitting structures for regulating both the WWTF and power plant.