

Response to Written Comments

In Consideration of Waste Discharge Requirements Order No. R1-2016-0013 for the JH Ranch Wastewater Treatment Facility (Facility)

**Regional Water Quality Control Board, North Coast Region
April 7, 2016**

Comment Letters Received

The deadline for submission of written public comments regarding the draft Waste Discharge Requirements (draft Order) was September 26, 2015. Seven comment letters were received. Regional Water Board staff has restated some the comments or summarized them for brevity. The comment letters were received from:

Che'usa Sienna Wend received August 31, 2015

Virginia Wurzbach received September 8, 2015

Michael Stapleton received September 18, 2015

Dan and Janeane Deppen received September 25, 2015

Michael and Evelyn Thomas received September 25, 2015

Greg Plucker, Siskiyou County Community Development Department, received September 25, 2015

Friends of French Creek received September 25, 2015

A. Che'usa Sienna Wend

Comment 1: It is not only loud sounding: chewing and grinding, but also odorous.

Response 1: The proposed Order includes requirements that are designed to prevent nuisance odors from the permitted Facility. Page 9 of the draft Order Section V. Discharge Specifications A. states: "Objectionable odor originating at the Facility shall not be perceived beyond the limits of the wastewater treatment and disposal areas". Any violation of these discharge specifications may subject the Discharger to enforcement action per Section VIII, General Provisions B of the proposed Order.

Enforcement of local requirements, including noise issues, is not within the jurisdiction of the Regional Water Board.

Comment 2: What about water contamination in French Creek?

Response 2: The proposed Order includes requirements and prohibitions that are designed to ensure that domestic waste from the JH Ranch is at all times fully treated and disposed of in a manner that is protective of groundwater and surface water. The discharge of waste to surface waters, which includes French Creek, is explicitly prohibited under a discharge prohibition of the proposed Order (Discharge Prohibition III.H). The

proposed Order requires the JH Ranch to prepare and submit a hydrogeologic study to determine the fate and transport of pollutants in the Facility's discharges of treated wastewater and to ensure that disposal methods will not result in detectable wastewater constituents in French Creek.

In response to public comments regarding the potential for surfacing effluent from the leachfields, the proposed Order includes an additional discharge prohibition against surfacing effluent from the subsurface disposal system (Discharge Prohibition III.C). Any violation of these discharge prohibitions may subject the Discharger to enforcement action per Section VIII. General Provisions B of the proposed Order.

Comment 3: I thought government agencies were to protect critical environmental areas as well as protect the public FROM just such blatant disregard of regulations. Those same regulations that We, the People, are subject to.

Response 3: The Facility, which has been in operation since 2001, was permitted by Siskiyou County. By adopting this Order, the Regional Water Board is establishing conditions of operation and discharge that are designed to protect water quality and public health.

Comment 4: Since 1993 JH Ranch has been out of compliance with occupancy restrictions and other various governmental regulations and NOTHING happens to them.

Response 4: Enforcement of local requirements, such as occupancy restrictions, and other regulations outside of the authority of the Regional Water Board is not within the jurisdiction of the Regional Water Board. By adopting this Order, the Regional Water Board is establishing conditions of operation and discharge that are designed to protect water quality and public health.

Comment 5: As a tax-paying resident of Etna, Scott Valley, Siskiyou County AND the State of California, I DEMAND that an Environmental Analysis (CEQA) be done on this system.

Response 5: The proposed Order establishes waste discharge requirements to an existing facility where there is no expansion of existing current use beyond that existing at the time of the lead CEQA agency's determination. Thus, the Regional Water Board's action to adopt waste discharge requirements for this *existing* Facility is exempt from provisions of CEQA.

B. Virginia Wurzbach

Comment 6: I am an immediate neighbor to the north of JH Ranch and drive through the property on a regular basis. Twice in the last six weeks there has been an

extremely foul smell of sewage when I have driven by the treatment facility. It is my understanding that the sewage treatment plant should not be emitting odors.

Response 6: All sewage treatment plants can emit odors. Through proper operation and maintenance of the treatment plant, offensive odors are minimized. The proposed Order includes a discharge prohibition against the creation of nuisance, as defined in California Water Code section 13050 (m). In addition, the proposed Order includes a provision (Discharge Specifications, section V.A.) that specifically prohibits the creation of objectionable odors originating at the Facility and perceivable beyond the limits of the wastewater treatment and disposal areas. Any violation of the discharge prohibition or specification may subject the Discharger to enforcement action per Section VIII. General Provisions B of the proposed Order. Based on Regional Water Board staff visits on August 13, 2014, and July 7, 2015, no offensive odors or other nuisance conditions were observed at or around the Facility. Nonetheless, upon adoption of the proposed Order, Regional Water Board staff can conduct routine site visits to assess whether conditions have changed or if offensive odors or other nuisance conditions exist.

C. Michael Stapleton

Comment 7: I am involved in the Scott River Watershed Council and spend a lot of time observing French Creek and I am seeing more and more algae growth in French Creek . . . With the leach field of the JH Ranch perched right above French Creek, I often wonder if some of the 45,000 gallons of sewage put into the leachfield each day is ending up in French Creek.

Response 7: There is currently no evidence to indicate that the discharge of treated domestic wastewater to leachfields used by the JH Ranch is contaminating French Creek. The proposed Order contains discharge prohibitions and discharge specifications that are designed to ensure that the Facility is at all times properly operated and maintained. In the event of a spill or operations that might result in inadequate treatment or disposal, the proposed Order includes requirements to conduct routine monitoring and report instances of permit noncompliance, including spills. With respect to assessing potential discharges to French Creek, the proposed Order requires a hydrogeologic study (Provision Q) to determine the fate and transport of pollutants in discharges of treated wastewater and to assess whether the disposal system is protective of local groundwater and surface water quality. Using the results of the hydrogeologic study, Regional Water Board staff can assess whether the disposal system is protective of groundwater and surface water quality.

Comment 8: . . . the JH Ranch sewage system . . . often it is emitting horrible odors.

Response 8: See Responses 1 and 6.

Comment 9: I was also surprised last winter . . . to see streams of water flowing across the leach field area and right into French Creek.

Response 9: The proposed Order prohibits discharges of waste to the Scott River and its tributaries (Discharge Prohibition III.H) and prohibits surfacing effluent from the leachfield areas (Discharge Prohibition III.C). Any unauthorized discharge of waste to French Creek would be a violation of the proposed Order and would subject the Discharger to enforcement action by the Regional Water Board per Section VIII. General Provisions B of the proposed Order.

D. Dan and Janeane Deppen

Comment 10: We visit our friends whom own lands bordering the JH Ownerships and are near the Sewage Treatment facility. During our visits, we have experienced foul odors emanating from the sewage treatment facility.

Response 10: See Responses 1 and 6.

Comment 11: We are concerned about water quality impacts not only during the daily operations, but also in wet weather. This area floods regularly from heavy runoff, carrying granitic highly erosive soil and ground water from the gulches immediately to the west of the facility. Our water quality downstream is threatened by any infiltration of effluents from the plant. This facility compares in size to the sewage treatment facilities for the small towns of Etna, and Fort Jones, hard to believe that in this highly sensitive environmental area, there is NO impact. French Creek Headwater originates at the JH Ranch Lodge. Paynes Lake Creek, Horse Range Creek, Duck Lake Creek, and drainage from Eaten Lake ALL come together at the Lodge location, forming "FRENCH CREEK PROPER." French Creek is also a spawning Stream for the endangered COHO Salmon and the management of the stream is critical for their preservation, not to mention the Pre-Existing Water Rights from French Creek and the users downstream.

Response 11: See Responses 2, 7 and 9.

Comment 12: The JH operations have been out of compliance with their existing Use Permit and continue to operate and expand disregarding the community impacts with little or NO intervention to this point.

Response 12: See Response 4. In addition, the proposed Order requires JH Ranch to report material changes in the character, location, or volume of the discharge, in which case the Regional Water Board will consider revision of waste discharge requirements.

Comment 13: We stress that the Requirement for a Full Environmental Impact Report be made mandatory prior to any further approvals or Expansion of any kind. So far the development has been skirting the CEQA requirements and trying to address the concerns with a Mitigated Negative Declaration, which is Inadequate, and should not even be considered.

Response 13: See Responses 5 and 27.

E. Michael and Evelyn Thomas

Comment 14: We live approximately 400 yards to the east of JH Ranch and have had odors from their system drift onto our property, particularly when there is a west wind, which makes it impossible to enjoy our property.

Response 14: See Responses 1 and 6.

Comment 15: Our concern is that increased sewage discharge would result in . . . possible contamination of French Creek.

Response 15: The proposed Order authorizes a waste discharge flow of 0.045 million gallons per day (mgd), which is the design capacity of the currently operating Facility as permitted by Siskiyou County. There is no permitted expansion of the Facility over 0.045 mgd. The proposed Order also prohibits the discharge of waste to the Scott River and its tributaries, including but not limited to French Creek. See Responses 2, 7, and 9.

Comment 16: Also, a question we have is whether or not the current sewage system is monitored and inspected regularly by people not connected with JH Ranch.

Response 16: Regional Water Board staff is not aware of any regular monitoring and inspections of the Facility by other agencies. The proposed Order establishes quarterly monitoring and reporting requirements and operation of the Facility by a state-licensed operator. In addition, Regional Water Board staff will conduct regular compliance inspections of the Facility following adoption of the proposed Order.

Comment 17: We are requesting that an environmental analysis (CEQA) be done on the JH Ranch sewage disposal system, as the amount of sewage being requested to be discharged is an increase over JH Ranch's current use.

Response 17: See Response 5 and 15.

F. Greg Plucker, County of Siskiyou, Community Development Department

Comment 18: I understand that there will be no increase in capacity over what the County had previously permitted.

Response 18: Correct. See Response 5 and 15.

Comment 19: I trust that in locating the monitoring wells pursuant to Section II. Monitoring Locations, the Board will consider the need to locate a well between the wastewater treatment facility disposal field and French Creek to ensure that the treatment facility does not negatively impact this important water way.

Response 19: The proposed Order requires the installation groundwater monitoring wells downgradient of the leachfield areas, and between the leachfield areas and French Creek. Under the proposed Order, JH Ranch will be required to conduct semiannual monitoring of the groundwater wells and submit the results to the Regional Water Board.

G. Friends of French Creek

Comment 20: We are glad the Board is taking over authority for waste discharge requirements for this facility, in keeping with the June, 2012 Onsite Wastewater Treatment System policy. Siskiyou County does not have the resources to provide adequate oversight that would ensure water quality and beneficial use protection. Scott River is an important salmonid fishery, with French Creek itself a critical spawning and rearing stream for State - and Federal-listed coho salmon (threatened species).

Response 20: Regional Water Board staff agrees that the waste discharge from JH Ranch is most appropriately regulated under Regional Water Board-issued waste discharge requirements.

Comment 21: The application does not appear to be complete because, upon reviewing your staff's JH files, there does not appear to have been any waste water quality data submitted between 2004 and the middle of 2014, and only 2 samples taken in the past decade (on 6/3/14 and 6/22/15). Such data are required in Rick Azevedo's April 11, 2014 letter to the JH Ranch. (*Subject: Request of Report of Waste Discharge, Onsite Waste Water Treatment and Disposal System.*) In fact, there is no evidence that the following information items that Mr. Azevedo requested (comprising a report of waste discharge) have been provided so that you can make an informed decision regarding Waste Discharge Requirements . . .

Response 21: Regional Water Board staff does not agree. While it is true that JH Ranch has not provided all of the information that was requested in the April 2014 letter, Regional Water Board staff has determined that the JH Ranch has provided sufficient information in the Report of Waste Discharge (ROWD), including sampling data, to draft waste discharge requirements for this existing discharge. More recent sampling data from September 2015 suggests that the Facility would be capable of meeting effluent limitations for biochemical oxygen demand (BOD), total suspended solids (TSS) and nitrogen contained in the proposed Order. Most critically, Regional Water Board staff has received and reviewed the engineering plans for construction of the wastewater treatment plant, which was designed to treat wastewater to levels that are expected to be protective of water quality. Further, the proposed Order requires a hydrogeologic study to determine the fate and transport of pollutants in discharges of treated wastewater and to assess whether the disposal system is protective of local groundwater and surface water quality.

Comment 22: Although a site inspection was made in July, 2015, the only evidence that the system will meet water quality objectives is a note that the system engineer

produced a clear water sample. This is in spite of the fact that the most recently analyzed sample (taken 6/22/15) had a 5-day BOD result of 183 mg/l –more than double the draft maximum daily effluent limitation- and the TSS result of 134 –four-fold the limitation. Similarly, total nitrogen result was eight-fold the daily value. No measured flow rates and a tabular summary of effluent data from the existing treatment system (Appendix D of the applicant’s submittal) could be located. If available, this should be made public, along with the rest of the application, with clearly titled appendices.

Response 22: During a site inspection in July 2015, Regional Water Board staff observed the wastewater treatment system in operation, with clear wastewater effluent. Regional Water Board staff was also provided a copy of previous wastewater effluent sampling data from June 2015 which contained elevated BOD and TSS which were not indicative of highly treated wastewater. Regional Water Board staff is unaware of the origins of the inconsistencies in treated effluent quality. Additional wastewater effluent sampling data from September 2015 suggest that the effluent would likely be in compliance with the effluent limitations for BOD, TSS and nitrogen contained in the proposed Order. We have no other effluent sampling data other than the June 2015 and September 2015 sampling data. Upon adoption of the proposed Order the Discharger will be required to sample wastewater effluent on a regular basis and meet effluent limitations for BOD, TSS, nitrogen, pH, and settleable solids. Any violation of effluent limitations may subject the Discharger to enforcement action; see Section VIII, General Provisions B of the proposed Order.

Comment 23: As evident in the attached satellite imagery, French Creek is in close proximity to the apparent leachfield, an estimated 100’ at its closest distance. (Attachment 1. Handwritten notes are by Bill Navarre, County of Siskiyou Public Health staff.) This should demand a more detailed “ . . . evaluation of the local stratigraphy and ground water hydrology” (Azevedo, April 11, 2014 letter) than simply a topographic map overlain with the facility location.

Response 23: Regional Water Board staff agrees that a better understanding of local stratigraphy and groundwater hydrology would be helpful in determining the fate of pollutants in treated wastewater discharged to subsurface leachfields. The hydrogeologic study required in General Provisions Q of the proposed Order requires JH Ranch to determine the fate and transport of pollutants in discharges of treated wastewater and to assess whether the disposal system is protective of local groundwater and surface water quality.

Comment 24: We are attaching a Total Coliform analysis taken from grab samples . . . The coliform levels suggest a large increase between a point on French Creek upstream of the JH Ranch, and a point at its downstream extent, which is not far downstream of the treatment system.

Response 24: Regional Water Board staff is aware of bacteria sampling in French Creek, and levels of total coliform detected in sampling adjacent to the JH Ranch property. There

is no clear information in regards to the specific origin of elevated bacteria in French Creek. Section VIII. General Provision I of the proposed Order and Section IV Receiving Water Monitoring Requirements in the proposed Monitoring and Reporting Program requires JH Ranch to monitor bacteria levels in the groundwater. In addition, General Provisions Q of the proposed Order requires a Hydrogeologic Study to determine the fate and transport of pollutants in discharges of treated wastewater and to assess whether the disposal system is protective of local groundwater and surface water quality.

Comment 25: In section B. Background and Facility Description, Paragraph 2, it appears that there are two types of leachfields in the system: subsurface and subsurface drip disposal. If we understand correctly, the drip system employs “Geoflow” emitters, which are shallowly buried. This poses a risk of ice-plugging during cold weather. (Personal Communication with Bill Navarre, Siskiyou County 8/31/2015). If true, this needs to be disclosed and appropriate requirements added to the Order regarding seasonal of use for this particular leachfield, which is designed for more than $\frac{3}{4}$ of the total leaching capacity . . . We respectfully request that . . . seasonal use restrictions be placed upon the portion of the system that utilizes shallowly buried emitters in the leachfield as the facility is located at approximately 3400' elevation and subject to freezing more than half the year . . .

Response 25: There is currently no evidence to indicate any failures or surfacing effluent related to either the subsurface leachfield trenches or the subsurface drip disposal areas. Regional Water Board staff is unaware of any winter time problems associated with drip disposal. The proposed Order requires the Discharger to properly operate and maintain all facilities and systems of treatment and control, and prohibits any surfacing effluent from both the subsurface leachfield trenches and the subsurface drip disposal areas. Any violation of these discharge requirements may subject the Discharger to enforcement action per Section VIII. General Provisions B of the proposed Order.

Comment 26: We do not feel that this project is in keeping with the State’s Antidegradation Policy because the rationale used, “This project consists of the operation or minor alteration of an existing facility which involves minimum change in use beyond that previously existing”, is not valid because it does not meet the definition of “existing use” under Class 1:

Response 26: The State’s Antidegradation Policy applies to the disposal of waste to high quality surface water and groundwater. The Antidegradation Policy requires the following:

1. Higher quality water will be maintained until it has been demonstrated to the state that any change will be consistent with the maximum benefit to the people of the state, will not unreasonably affect present and anticipated beneficial use of the water, and will not result in water quality less than prescribed in the policies.
2. Any activity that produces a waste and discharges to existing high quality waters will be required to meet Waste Discharge Requirements that will result in the best

practicable treatment or control of the discharge necessary to assure pollution or nuisance will not occur, and the highest water quality consistent with the maximum benefit to the people of the state will be maintained.

Compliance with the terms of the Order should result in an improvement in water quality in area groundwater within the Scott Valley Hydrologic Subarea of the Scott River Hydrologic Area, and in French Creek and the Scott River. The discharge of waste to the Scott River and its tributaries, which includes French Creek, is prohibited. In addition, the Order sets forth effluent limitations and other prohibitions that prevent waste constituents from entering the surface water. The existing wastewater treatment and disposal system, operated correctly and in compliance with waste discharge requirements, will offer reasonable protection of the beneficial uses of groundwater with no discharge to surface water.

Limited degradation of groundwater by some waste constituents associated with dischargers from the wastewater treatment system is consistent with the maximum benefit to people of the State because the Order allows the continued operation of an existing wastewater treatment system designed to protect beneficial uses and meet water quality objectives, requires monitoring of groundwater impacts, and allows the continued operation of a facility that contributes to the economic prosperity of the community. The technology, energy, water recycling, and waste management advantages of the wastewater treatment system far exceed any benefits derived from reliance on numerous, concentrated septic systems, and the impact on water quality will be substantially less. The economic prosperity of communities in the North Coast Region is of maximum benefit to the people of the State, and provides sufficient justification for allowing the limited groundwater degradation that may occur pursuant to this Order. In addition, the existing wastewater treatment system in place is the best practicable treatment of the discharge necessary to assure pollution or nuisance will not occur because the system was designed to achieve effluent levels protective of water quality. The system in place provides a higher treatment level than those located at similar facilities, and other systems in the area with similar flow design outputs.

The Discharger will develop and implement a pretreatment and self-monitoring program. This program will require collection system monitoring and maintenance. Attachment B of the Order requires ongoing groundwater monitoring for nitrogen and coliform bacteria that ensures the Best Practicable Treatment or Control (BPTC) is effective, water quality objectives will not be exceeded, and confirms that water quality will be maintained at a level that is protective of beneficial uses.

The proposed Order complies with the Antidegradation Policy because, after consideration of all relevant information, it is the determination of Regional Water Board staff that the existing wastewater treatment and disposal system, when operated correctly and in compliance with waste discharge requirements, will offer reasonable protection of all beneficial uses of groundwater. In addition, the Discharger is operating a wastewater treatment and disposal system that constitutes BPTC of discharges to the subsurface. The

limited and localized degradation to groundwater that may occur is consistent with the maximum benefit of the public.

Finding II.G of the proposed Order was revised to further expand on the conditions of the State's Antidegradation Policy and their relationship to the Facility.

Comment 27: We feel that this project needs to be properly assessed using a CEQA analysis. It does not qualify for an exemption under the CA Code of Regulations, Title 14, section 15301, for two reasons:

- a) The project does not meet the definition of "existing use" under Class 1, which is "involving negligible or no expansion of existing use." We maintain that an increase (from 33,333 to 45,000 gallons per day) is not a "negligible or no expansion" of use.**
- b) A project with a significant cumulative impact cannot qualify for a Class 1 exemption. No cumulative effects analysis has been done for the treatment project. However, public comments to the proposed mitigated negative declaration for the JH Ranch PDPA, including your own agency comments to Greg Plucker of Siskiyou County, dated April 4, 2014 suggest that there is a risk of potential and significant cumulative effects on water quality and beneficial uses of water in French Creek, due to the JH Ranch development. Similarly, California Dept. of Fish and Wildlife's Preliminary Review of Proposed Application Modifications for the JH Ranch PDPA, June 22, 2015 letter to Siskiyou County point out "substantial" improvements to structures in the riparian buffer and possible surface flow diversion or pumping to fill a new pond, beyond the water rights' decreed use (Attachment 3).**

According to our review of the staff file, a specific determination of whether the project was exempt from CEQA does not appear to have been made by any agency . . . We respectfully request that . . . a CEQA determination be made, informed by an EIR-level analysis that utilizes adequate data . . .

Response 27: See Response 5. Regional Water Board staff does not agree. This Order does not authorize any expansion of use of the Facility, and no increase or change in discharge is expected. In addition, the proposed Order authorizes a discharge flow of 0.045 million gallons per day (mgd), which is the design capacity of the currently operating Facility as permitted through Siskiyou County. There is no permitted expansion of the Facility over 0.045 mgd. The proposed Order is considered a project that involves issuing waste discharge requirements to an existing facility where there is no expansion of an existing use beyond that existing at the CEQA lead agency's determination. In addition, the Facility is located in a rural area where other facilities and dischargers of the same type are not expected over time. The Regional Water Board is not authorizing new development or a new discharge; it is imposing regulatory requirements on existing, unregulated dischargers in order to ensure protection of water quality. Any future successive projects at the Facility of a similar type (regulation of existing discharge to ensure water quality) are not expected to occur over time. This is within the scope of the Class 1 exemption. Future expansions to

the discharge are speculative and would not be considered the same type of project. No significant cumulative impact from successive projects of the same type in the same place over time is expected that makes use of a CEQA exemption inapplicable. Thus, the Regional Water Board's actions to adopt waste discharge requirements for the existing project is exempt from provisions of CEQA. This language was added to Section II.J. California Environmental Quality Act (CEQA), (page 7) of the proposed Order.

Comment 28: With respect to section K (Notification of Interested Parties), we understand that notification was given via the Internet. We are disappointed that - given our obvious level of interest, repeatedly inquiring about the status of JH's waste discharge requirement process - none of the several staff members had the courtesy to alert us to this comment period. In fact, the public notice was given in Santa Rosa and Eureka, California newspapers, outside the county where the most interest would be, and from four to eight hours' drive away. We do not feel that the spirit or intent of this section was met. We sincerely hope that we might be kept informed as this process moves forward, if possible through regularly scheduled monitoring and reporting.

Response 28: It is the Regional Water Board's practice to fulfill its legal obligation to provide notice of the availability of documents concerning proposed waste discharge requirements by posting the public notice on the Regional Water Board's website in addition to posting the notice in at least one local newspaper. This practice was followed for the proposed Order, with the legal notice sent to the discharger as well as posted in the Sonoma County Press Democrat, Eureka Times-Standard, Siskiyou Daily News, and on the Regional Board website.

To ensure that local residents and interested parties are kept aware of developments regarding JH Ranch and other projects in the Etna areas, we have included the Friends of French Creek on our interested parties list for additional notifications.

Comment 29: We are glad to see the draft order's Hydrogeologic Study requirement. The intent is clearly stated. However, investigative design requirements are vague and inconsistent with Attachment B, Monitoring and Reporting Program. In particular, Section Q items 3, 4 and 6 suggest an adequate array of groundwater monitoring wells to characterize spatial and temporal variability within the leachfield area. Yet in Table B-1, monitoring wells are only required at the perimeter of the leachfields. . . We respectfully request that . . . the monitoring plan be clarified or modified from requiring monitoring wells just at the leachfield perimeters to requiring an adequate array of wells, placed so that they can meet the stated objective of draft Order Sec. Q (to characterize spatial and temporal variability within the leachfield area).

Response 29: The placement of groundwater monitoring wells will not be limited to perimeter leachfield areas. Rather, the placement of groundwater monitoring wells will be determined based on an approved investigation work plan submitted in accordance with

Section Q of the proposed Order. A footnote was added to Table B-1 of the proposed Order to reflect this.

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