

**Regional Water Quality Control Board
Central Valley Region
Board Meeting – 4-5 October 2012**

**Response to Written Comments for POM Wonderful, LLC,
Whole Fruit and Juice Extraction Plant
Initial Study and Proposed Mitigated Negative Declaration
And
Tentative Waste Discharge Requirements**

At a public hearing scheduled for 4 and 5 October 2012, the Regional Water Quality Control Board, Central Valley Region, (Central Valley Water Board) will consider adoption of an Initial Study and Mitigated Negative Declaration (ISMND) and Waste Discharge Requirements (WDRs) for discharges from the POM Wonderful, LLC (POM) Whole Fruit and Juice Extraction Plant (Plant). This document contains responses to written comments received from interested parties regarding the draft ISMND and tentative WDRs initially circulated on 5 July 2012. Written comments from interested parties were required by public notice to be received by the Central Valley Water Board by 6 August 2012 to receive full consideration. Comments were received from POM, the Native American Heritage Commission, Department of Fish and Game, Department of Water Resources, and Jo Anne Kipps.

Written comments from the above interested parties are summarized below, followed by the responses of Central Valley Water Board staff. Based on the comments, Central Valley Water Board staff did make some changes to the draft ISMND and tentative WDRs. Central Valley Water Board staff also made some changes to correct typographical errors and to improve clarity.

POM WONDERFUL, LLC (POM) COMMENTS

Via email on 2 August 2012, POM concurred with an email from Central Valley Water Board staff summarizing a meeting regarding POM's comments to the draft ISMND and tentative WDRs.

POM Comment No. 1: The assessor's parcel number (APN) for the Plant listed in Finding 3 of the tentative WDRs is incorrect and the APN for the land application area should be included in the Finding.

RESPONSE: The requested changes have been made.

POM Comment No. 2: The portion of the sludge application area southwest of the former railroad track will no longer be available for sludge or wastewater application due to the construction of an airstrip at that location. Revise the figure on Attachment A accordingly.

RESPONSE: The requested change has been made. The WDRs have also been updated to include a Provision for POM to demonstrate future sludge disposal practices are protective of water quality in the absence of the current sludge application area.

POM Comment No. 3: For effluent monitoring, eliminate ammonia as N and total dissolved solids (TDS) from the Constituent/Parameter list and revise the frequency for General Minerals

monitoring to once every five years or following a process change at the Plant that would affect the water quality of the effluent.

RESPONSE: Staff concurs with the elimination of ammonia as N from the Constituent/Parameter list for effluent monitoring since total nitrogen of the effluent (and therefore total nitrogen loading rates to the land application area, which are required by the Land Application Area section of the Monitoring and Reporting Program) can still be calculated by adding the concentrations of total Kjeldahl nitrogen (TKN) and nitrate as N. Ammonia as N has been removed from the Constituent/Parameter list for effluent monitoring.

Staff does not concur with the elimination of TDS from the Constituent/Parameter list for effluent monitoring. In order for the Plant to maintain the exception to the *Water Quality Control Plan for the Tulare Lake Basin, Second Edition, January 2004* (Basin Plan) effluent EC limit of source water plus 500 umhos/cm (also referred to as the “incremental increase in salts”), it must demonstrate that the discharge exhibits a disproportionate increase in EC over the EC of the source water due to unavoidable concentrations of organic dissolved solids from the raw food product. This data will also be necessary when staff updates the WDRs. A comparison of the effluent fixed dissolved solids (FDS) and TDS data can be used for this demonstration. Although FDS and EC will be monitored in the effluent, it would be difficult to make the demonstration for the exemption to the incremental increase in salts effluent limit by comparing FDS and EC. In addition, POM did not object to monitoring FDS in the effluent. The TDS concentration of a sample can be determined as part of the FDS analysis with little or no additional expense. TDS has not been removed from the Constituent/Parameter list for effluent monitoring.

Staff does not concur with the reduction in frequency of monitoring General Minerals to once every five years or following a process change at the plant that would affect the water quality of the effluent. Chloride is part of the General Minerals analytical suite and is currently monitored semiannually. Review of POM’s self-monitoring reports indicates a recent increase in the effluent chloride concentration from an average of 34.2 mg/L between April 2005 and April 2010 to up to 190 mg/L in October 2011. The Basin Plan requires discharges to areas that may recharge to good quality waters (which is the case for the Plant) shall not exceed a chloride content of 175 mg/L. Because of the Basin Plan’s requirement and recent effluent concentrations for chloride, a reduction in monitoring frequency for this constituent is not warranted. However, the effluent monitoring section of the Monitoring and Reporting Program has been revised so the General Minerals analytical suite only includes the cations and anions needed to conduct a cation/anion balance [i.e., bicarbonate (as CaCO₃), calcium, carbonate (as CaCO₃), chloride, magnesium, potassium, sodium, and sulfate] but continue to be monitored on a semiannual basis. The frequency of monitoring the full analytical suite for General Minerals [alkalinity (as CaCO₃), aluminum, bicarbonate (as CaCO₃), boron, calcium, carbonate (as CaCO₃), chloride, copper, hardness (as CaCO₃), iron, magnesium, manganese, phosphate, potassium, sodium, and sulfate]

has been reduced to once every five years or following a process change at the Plant that would affect the water quality of the effluent.

POM Comment No. 4: For groundwater monitoring, eliminate ammonia as N and total organic carbon from the Constituent/Parameter list and reduce the analytical suite for General Minerals to only include chloride and sulfate.

RESPONSE: Staff concurs with the elimination of ammonia as N and total organic carbon from the Constituent/Parameter list. Sufficient nitrogen groundwater data can be obtained from nitrate as N and TKN data. Also, reducing conditions of groundwater can be determined from field measurements of oxidation/reduction potential and dissolved oxygen in lieu of collecting samples for total organic carbon analysis. Ammonia as N and total organic carbon have been removed from the Constituent/Parameter list for groundwater monitoring.

Review of historical groundwater data indicates boron and copper are either non-detect or slightly above the detection limit (but below maximum contaminant levels identified in Title 22 of the California Code of Regulations) and can be eliminated from the General Minerals analytical suite. Although iron and manganese have similar results as boron and copper, they cannot be removed from the General Minerals analytical suite because they are key indicator parameters of organic overloading of soil, which causes reducing conditions and leaches metals from the soil to groundwater. However, in addition to chloride and sulfate, groundwater samples should also be analyzed for cations and anions needed to conduct a cation/anion balance [i.e., bicarbonate (as CaCO_3), calcium, carbonate (as CaCO_3), magnesium, potassium, and sodium] and iron and manganese. Therefore, the General Minerals analytical suite has been revised and the metals removed as indicated above for groundwater monitoring.

POM Comment No. 5: For source water monitoring, revise the frequency for General Minerals monitoring to once every 5 years.

RESPONSE: The requested change has been made; however, the first General Minerals monitoring of source water is required within twelve months of adoption of the WDRs.

POM Comment No. 6: For soil monitoring, eliminate sodium and chloride from the Constituent/Parameters list and revise the sample type to be a composite of all samples collected at each depth interval.

RESPONSE: The requested changes have been made.

POM Comment No. 7: On Page 6 of the Information Sheet, change “is” to “its” in the last sentence of bullets a) and b).

RESPONSE: The requested changes have been made.

POM Comment No. 8: Revise Figure 1 of the ISMND so that the land application area does not extend south of Clayton Avenue.

RESPONSE: The requested change has been made.

NATIVE AMERICAN HERITAGE COMMISSION (NAHC) COMMENTS

On 19 July 2012, the NAHC submitted a letter with comments on the draft ISMND.

NAHC Comment No. 1: NAHC urges POM to make contact with Native American contacts on the attached list to see if the proposed project might impact Native American cultural resources and to obtain their recommendations concerning the proposed project.

RESPONSE: The existing mitigation measure for the Cultural Resources section of the ISMND will be revised to require POM to make contact with the Native American contacts on the list provided by the NAHC prior to disturbing soil at the Plant. The Native American contacts lists will be provided as an attachment to the ISMND.

DEPARTMENT OF FISH AND GAME (DFG) COMMENTS

On 31 July 2012, DFG submitted a letter with comments on the draft ISMND. The letter identifies areas where biological resources could potentially be impacted by the project. Specifically, DFG is concerned with the potential project related impacts to the State-listed threatened Swainson's Hawk and other birds which may utilize large on-site eucalyptus trees for nesting or roosting. These trees are located near where a new processing building will be constructed and there are preliminary plans to remove the eucalyptus trees.

DFG Comment No. 1: Other Nesting Bird Species - Project activities including disturbances near, or the removal of, trees being utilized by nesting birds, should take place outside of the breeding bird season which generally runs from February 15 to August 31 to avoid "take" (including disturbances which would cause abandonment of active nests containing eggs and/or young). "Take" means to hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture, or kill (Fish and Game Code, Section 86).

If the Project activities cannot feasibly avoid the breeding bird season, DFG recommends that beginning no more than 15 days prior to construction of tree removal, bird surveys should be conducted to detect any protected native birds utilizing the trees. The surveys should be conducted by a qualified wildlife biologist with experience in conducting breeding bird surveys. A no-disturbance buffer should be clearly delineated on the ground around active bird nests. DFG recommends buffers of at least ½-mile around active nests of listed species, 500 feet

around active nests of non-listed raptors and migratory birds species, and 250 feet around active nests of other bird species until the breeding season has ended or until a qualified wildlife biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

RESPONSE: The DFG recommendations have been added as a mitigation measure to the Biological Resources Section of the ISMND.

DFG Comment No. 2: Swainson's Hawk – If ground-disturbing or construction activities are to occur in association with the Project during the breeding season (February 1 through September 15), DFG recommends that a qualified wildlife biologist conduct surveys for nesting Swainson's Hawk following the survey method developed by the Swainson's Hawk Technical Advisory Committee prior to commencing Project-related activities. Additional pre-construction surveys for active nests should be conducted by a qualified biologist no more than 10 days prior to the start of construction and during the appropriate timing to maximize detectability. Should an active nest be found, a minimum no-disturbance buffer of ½-mile should be observed until the breeding season has ended or until a qualified wildlife biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

If avoidance of a known nest tree is not feasible, the acquisition of an Incidental Take Permit pursuant to Section 2081(b) of the Fish and Game Code may be warranted and consultation with DFG should occur well in advance of ground-disturbing activities.

RESPONSE: The DFG recommendations have been added as a mitigation measure to the Biological Resources Section of the ISMND.

DFG Comment No. 3: Regardless of nesting status, trees that must be removed should be replaced with and appropriate native tree species planting at a ratio of 3:1 that will be protected in perpetuity. This mitigation is needed to offset impacts to the loss of potential nesting habitat as nest trees are an extremely limited resource in the western central portion of the southern San Joaquin Valley. Funding of a sufficient long-term endowment for the management of the protected properties should be paid by the Project sponsors. In addition to fee title acquisition of Swainson's Hawk nesting habitat, mitigation could occur by the purchase of conservation or suitable easements. The Department recommends that lands protected as nesting habitat for Swainson's Hawk are located no more than 10 miles from suitable foraging habitat in order to be beneficial to the species.

RESPONSE: The DFG recommendations have been added as a mitigation measure to the Biological Resources Section of the ISMND.

DEPARTMENT OF WATER RESOURCES (DWR) COMMENTS

On 30 July 2012, DWR submitted a letter with comments on the draft ISMND.

DWR Comment No. 1: DWR notes that as defined in Sections 6002 and 6003, Division 3, of the California Water Code, dams 25 feet or higher with a storage capacity of more than 15 acre-feet, and dams higher than 6 feet with a storage capacity of 50 acre-feet or more are subject to State jurisdiction. If either of the two proposed ponds is subject to State jurisdiction, a construction application, together with plans, specifications, and the appropriate filing fee must be filed with the Division of Safety of Dams for this project. All dam safety related issues must be resolved prior to approval of the application, and the work must be performed under the direct supervision of a Civil Engineer registered in California.

RESPONSE: The DWR requirement has been added as a mitigation measure to the Hydrology and Water Quality Section of the ISMND.

JO ANNE KIPPS COMMENTS

Via email on 6 August 2012, Jo Anne Kipps submitted a letter with comments on the tentative WDRs.

Ms. Kipps Comment No. 1: Since POM treats the Plant's industrial wastewater to reduce BOD to levels approaching secondary treated municipal wastewater, the discharge no longer contains the "unavoidable concentrations of organic dissolved solids from the raw food product" that supports granting the incremental EC limit exemption. Revise Finding 34 to describe why the Basin Plan's incremental EC limit exemption does not apply to this discharge and revise Effluent Limitation C.1 to establish the monthly average effluent limit for EC to source water plus 500 umhos/cm.

RESPONSE: In accordance with the Basin Plan, secondary treatment of municipal wastewater should remove 85 percent or reduce to 30 mg/L, whichever is more restrictive, of BOD. Review of influent and effluent pond data from POM's self-monitoring reports for 2012 indicates an average BOD removal of 88 percent; however, the average effluent BOD concentration is still 166 mg/L. As such, POM's discharge meets the exemption to the effluent limit for EC of source plus 500 umhos/cm and Finding 34 and Effluent Limitation C.1 have not been changed.

Ms. Kipps Comment No. 2: The drying of sludge in the empty storage pond (described in Finding 11) has the potential to create nuisance odors. Revise Solids Disposal Specification E.1 to require the discharger to implement appropriate treatment or control measures for precluding the development of odor nuisance conditions during sludge drying operations.

RESPONSE: The suggested language has been added to Specification E.1.