



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

OFFICE OF THE
REGIONAL ADMINISTRATOR

Mr. Robert E. Perdue
Executive Officer
California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, California 92260

RE: Approval of the Use of Freshwater Aquatic Life Criteria for Niland Sanitary District
NPDES Permit, NPDES No. CA0104551

Dear Mr. Perdue:

The U.S. Environmental Protection Agency ("EPA") has reviewed the *Bioassessment of the R Drain to the Salton Sea at the Niland Sanitary District Wastewater Treatment Plant Discharge* (the "Bioassessment") for consideration of the use of alternative freshwater aquatic life criteria in 40 CFR 131.38 for a portion of the R Drain. On October 1, 2007, the Niland Sanitary District submitted the Bioassessment to EPA and requested that freshwater criteria be applied to its wastewater discharge into the R Drain. In this letter, the Niland Sanitary District indicated that its request applied to the receiving waters of the R Drain at the discharge point from its wastewater treatment facility in Niland, California. Niland is currently discharging into the R Drain under the National Pollutant Discharge Elimination System ("NPDES"), Order No. R7-2003-0049, NPDES Permit No. CA0104551.

In accordance with 40 CFR 131.38, EPA is proposing to approve the use of freshwater aquatic life criteria only in the portion of the R Drain specified in the Niland Sanitary District's October 1, 2007 submittal as the receiving waters for the wastewater discharged from the Niland Wastewater Treatment Plant.

Scope of EPA's Tentative Approval

Today's tentative approval applies to the use of alternative freshwater criteria on a site-specific basis that is subject to EPA's approval authority under 40 CFR 131.38(c)(3). For waters with salinities between 1 and 10 ppt, such as the portion of the R Drain defined herein, 40 CFR 131.38(c)(3) provides that such waters be addressed as follows:

"For waters in which the salinity is between 1 and 10 parts per thousand as defined in paragraphs c(3)(i) and (ii), the applicable criteria are the more stringent of the freshwater or saltwater criteria. However, the [EPA] Regional Administrator may approve the use of the

alternative freshwater or saltwater criteria if scientifically defensible information and data demonstrate that on a site-specific basis the biology of the water body is dominated by freshwater aquatic life and that freshwater criteria are more appropriate; or conversely, the biology of the water body is dominated by saltwater aquatic life and that saltwater criteria are more appropriate. Before approving any change, EPA will publish for public comment a document proposing the change."

Thus, pursuant to 40 CFR 131.38(c)(3), the Colorado River Basin Regional Water Quality Control Board adopted Order No. R7-2003-0049, NPDES No. CA0104551 for the Niland Sanitary District on June 25, 2003, with the most stringent of the freshwater or saltwater criteria.

Approval to use freshwater criteria in a segment of the R Drain, defined as the Niland Wastewater Treatment Plant's discharge point into the R Drain, would not apply to the R Drain in its entirety, but only to the portion that is the subject of today's tentative approval.

Discussion and EPA's Tentative Approval

The Niland Sanitary District conducted a site-specific assessment of the biology of the R Drain surrounding the discharge location, pursuant to 40 CFR 131.38(c)(3), to determine whether the species observed are more typical of a freshwater or saltwater environment. The Bioassessment was conducted at the discharge location into the R Drain. Sampling stations were established at the outfall, 200 meters upstream from the outfall, and 200 meters downstream from the outfall. At each sampling station the following data were collected: water salinity, dominant vegetation, and aquatic invertebrates. The water salinity was measured at 0 parts per thousand at all three sampling locations. According to the Bioassessment, the collections of invertebrates at the outfall were dominated by epifaunal molluscs and backswimmers. Dominant mollusc taxa included snails of the family Phisiidae and snails of the family Planorbidae. Both mollusc taxa are freshwater species. The only species of fish that was collected was the mosquito fish which can tolerate freshwater or saline water. Therefore, mosquito fish are not good indicators of a freshwater or a saline system. Dominant vegetation included Bermuda grass and arrow weed. Bermuda grass can tolerate some salinity but is most common in fresh water systems. Arrow weed is common along desert watercourses and can tolerate some salinity.

EPA agrees with the conclusion that the R Drain in the vicinity of the Niland Wastewater Treatment Plant is more typical of a freshwater ecosystem than a saltwater system. Therefore, EPA believes that the freshwater criteria are appropriate. However, prior to a final decision, in accordance with 40 CFR 131.38(c)(3), EPA shall give public notice that it is proposing to approve the use of alternative freshwater aquatic life criteria for this portion of the R Drain. EPA shall jointly public notice this letter with the Colorado River Basin Regional Water Quality Control Board's public notice for the proposed re-opening of the Niland Sanitary District's NPDES permit, Order No. R7-2003-0049, NPDES Permit No. CA0104551. EPA will take into consideration and respond to comments received by EPA during the public comment period.

If there are any questions regarding our tentative approval action, please contact Matthew Mitchell, of the Monitoring and Assessment Office, at (415) 972-3508. As always, we look forward to continued cooperation with the Colorado River Basin Regional Water Quality Control Board in achieving our mutual environmental goals.

Sincerely,

for Alex Stanss 14 July 2009
Wayne Nasti
Regional Administrator

cc: Jose Figueroa-Acevedo, CA RWQCB, RB7
David Godsey, Niland Sanitary District