



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

DEC 29 2008

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 McCabe Union School
District NPDES Permit, NPDES No. CA0104281

Dear Mr. Perdue:

The U.S. Environmental Protection Agency ("EPA") has reviewed the *Biological Assessment of the McCabe School Wastewater Treatment Facility Discharge Location* (the "Bioassessment") for consideration of the use of alternative freshwater aquatic life criteria in 40 CFR 131.38 by the McCabe Union School District for a portion of Wildcat Drain. On December 3, 2008, the McCabe Union School District submitted the Bioassessment to EPA and requested that freshwater criteria be applied to its wastewater discharge into Wildcat Drain. In the bioassessment, the McCabe Union School District indicated that its request applied to the receiving waters of Wildcat Drain at the discharge point from the McCabe School's wastewater treatment facility in El Centro, California. The McCabe wastewater treatment facility is currently discharging into Wildcat Drain under the National Pollutant Discharge Elimination System ("NPDES"), Order No. R7-2007-0035, NPDES Permit No. CA0104281.

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 Wildcat Drain specified in the McCabe School District's December 3, 2008, submittal as the receiving waters for the wastewater discharged from the McCabe School's wastewater treatment facility.

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 Wildcat 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. R7-2007-0035, NPDES No. CA0104281 for the McCabe Union School District on September 19, 2007, with the most stringent of the freshwater or saltwater criteria.

Approval to use freshwater criteria in a segment of Wildcat Drain, defined as the McCabe School's wastewater treatment facility discharge point into Wildcat Drain, would not apply to Wildcat Drain in its entirety, but only to the portion that is the subject of today's tentative approval.

Discussion and EPA's Tentative Approval

Barrett's Biological Surveys (on behalf of the McCabe Union School District) conducted a site-specific assessment of the biology of Wildcat 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 Wildcat Drain. Sampling stations were established at the outfall, 100 meters upstream from the outfall, and 100 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 3 parts per thousand at the three sampling locations. According to the Bioassessment, freshwater species of fish that were observed included mosquito fish, catfish, and red shiner. In addition, plant species included salt cedar and Bermuda grass which can tolerate some salinity, but are equally well adapted to fresh water environments. Plant species also included alkalai heliotrope, water grass, Mexican sprangletop, and sago pondweed. Pondweeds are considered native freshwater plants.

EPA agrees with the conclusion that Wildcat Drain in the vicinity of the McCabe School's wastewater treatment facility 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 Wildcat 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 McCabe Union School District's NPDES permit, Order No. R7-2007-0035, NPDES Permit No. CA0104281. 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 Standards and TMDL 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,

Alexis Starns
for Wayne Nasti 29 Dec. 2008
Regional Administrator

cc: John Carmona, CA RWQCB, RB7
Amanda Brooke, McCabe Union School District

