

San Diego Water Board Responses to Comments On Tentative Order No. R9-2012-0004, Fallbrook Public Utility District Discharge To Pacific Ocean Via Oceanside Ocean Outfall

The following is in response to the July 9, 2012 letter and attachment (redlined/strikeout of the Tentative Order) from Downey, Brand Attorneys LLP, submitted on behalf of Fallbrook Public Utility District (FPUD), regarding Tentative Order No. R9-2012-0004 and a FPUD letter dated July 12, 2012 providing additional comments on the TCDD equivalents effluent limitation.

Comment 1: Findings, Paragraph C, pg. 5 – State-Law-Only-Requirements Must Be Readily Identifiable or Placed in a Separate WDR.

Request: *Add the language proposed for Finding II.C. (...the requirements of which may not be required by federal law, and would not be enforceable by federal law. In lieu of adopting two different permits, the state and federal permits are combined into this single permit.) and clearly identify the state law only provisions of the Permit to implement Finding II.Q.*

Response: No change is warranted. Neither State law nor federal law requires NPDES permits to identify state law only requirements and in reviewing subsection VI.C, the broad statement in Finding II.Q is appropriate.

1. The purpose of Finding II.C is to identify the general legal authorities for the Order. The suggested added language is not necessary.
2. Finding II.Q broadly states that some of the provisions/requirements in subsection VI.C, Special Provisions, are not required or authorized under the federal Clean Water Act (CWA).

Finding Q and the Fact Sheet (Page F-10) have been modified to provide further discussion of the factors specified by CWC section 13241, which apply to the state-law only requirements in the Order.

Comment 2: Findings, Paragraph K, pg. 7 – The Permit Contains Provisions More Stringent than Federal Law and therefore, the Conclusion that It Does Not Must be Removed.

Request: *Remove the last sentence of Finding II.K.*

Response: The permit has been modified in response to FPUD's comment regarding Finding II.K of the Tentative Order, which states: "*Collectively, this Order's restrictions on individual pollutants are no more stringent than required to implement the requirements of the CWA.*" FPUD argued that this subsection should focus on each individual requirement, rather than the order collectively. To focus on each individual requirement, the word "collectively" was removed from this sentence.

Although this comment does not identify which requirements that FPUD asserts are more stringent than federal law, the requirements prescribed in Tentative Order No. R9-2012-0004 are consistent with section 122.44(d)(1), title 40 of the Code of Federal Regulations [40 CFR §122.44(d)(1)], which requires permits to include “*any requirements in addition to or more stringent than promulgated effluent limitations guidelines or standards ... necessary to ... achieve water quality standards established under section 303 of the CWA, including state narrative criteria for water quality.*”

Comment 3: Discharge Prohibitions D. and E. – Remove these Duplicative and Unnecessary Provisions.

Request: *Remove duplicative prohibitions found in Discharge Prohibitions D. and E. and other duplicative provisions (BOD effluent monitoring and Sections VI.A.2.g and h) in the permit or monitoring and reporting program.*

Response: In response to the comment, the following modifications to the Tentative Order have been made:

1. San Diego Water Board Standard Provision VI.A.2.a which states, “*Compliance with Ocean Plan Discharge Prohibitions, summarized in Attachment G of this Order, is required as a condition of this Order,*” was deleted because the California Ocean Plan Discharge Prohibitions are specifically enforced through Prohibition D of the Tentative Order.
2. San Diego Water Board Standard Provision VI.A.2.b, which states, “*Compliance with the Discharge Prohibitions contained in Chapter 4 of the Basin Plan, summarized in Attachment G of this Order, is required as a condition of this Order,*” was deleted because the Basin Plan Discharge Prohibitions are specifically enforced through Prohibition E of the Tentative Order.
3. Attachment F, section IV.A.3 was modified to reflect changes 1 and 2 above.
4. The requirement for monitoring of BOD contained in Attachment E, Table E-3 was deleted. As noted by FPUD, the effluent monitoring for BOD is unnecessary since the permit does not contain an effluent limitation for BOD.

Discharge Prohibitions D. and E. are not duplicative of Finding II.D and Attachment G. Finding II.D is to incorporate Attachment G, which is enforced by Prohibitions D. and E.

Section VI.A.2.g and h are not duplicative. Section VI.A.2.g pertains to the necessary protection for waste treatment, containment, and disposal facilities against 100-year peak stream flows and Section VI.A.2.h pertains to the necessary protection for these facilities from 100-year, 24-hour storm events. Peak stream flows and storm events are not the same thing and may not always occur simultaneously. Both of these requirements were also required in the current Order.

Comment 4 and 5: Effluent Limitations and Discharge Specifications, Tables 7 and 8 – Inclusion of Mass Limits is not Required by Federal Law.

Request: *Remove all mass limits from Tables 7 and 8.*

Response: The San Diego Water Board does not concur with FPUD's request. The mass-based limits are necessary to ensure compliance with federal law.

The San Diego Water Board, with the discretion given in 40 CFR §122.45(f)(2)¹, has the authority to express NPDES permit effluent limitations for the same pollutant in terms of both concentration and mass and the federal regulations require compliance with both concentration- and mass-based limitations contained in the Tentative Order.

Prohibition III.C states: "The discharge of wastes from the Facility during dry-weather months (May to October) in excess of a monthly average effluent flow of 2.7 MGD, and during wet-weather months (November to April) in excess of a monthly average effluent flow of 3.6 MGD is prohibited." The difference between dry and wet weather limitations is to account for short term groundwater inflow and rainfall infiltration into the collection system. This flow limitation is a component of the NPDES permit to ensure proper operation and maintenance of facilities and systems of treatment and control, which is prescribed under 40 CFR 122.41(e). The mass-based limits in Table 7 are based on a flow volume of 2.7 MGD and apply to BOD and TSS in terms of monthly average and weekly average limitations and to grease and oil in terms of monthly average, weekly average and instantaneous maximum limitations. The mass-based limits are being applied to Table 7 constituents, which are technology based effluent limitations, also to ensure proper operation and maintenance of treatment facilities.

Additionally, the mass-based limits in Table 8 are federally required to meet water quality standards. Section 301(b)(1)(C) of the CWA requires "any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations." The California Ocean Plan contains water quality standards and implementation provisions for those standards that were adopted by the State Water Resource Control Board (State Water Board) on September 15, 2009 and approved by the U.S. Environmental Protection Agency (USEPA) on October 8, 2010. Table 8 of the Tentative Order contains the concentration and mass effluent limitations required by the aforementioned federal regulations to meet the water quality standards and to follow the implementation provision, Section III.C.4.j contained in the federally approved California Ocean Plan (State law). Therefore, the concentration- and mass-based effluent limits contained in Table 8 of the Tentative Order are required by federal law.

Mass-based limits also provide an assessment of conformance with the federal antidegradation policy. For example, mass-based limits were specified in Order No. 2001-12, which preceded current Order No. R9-2006-002. The mass-based limits prescribed in Order No. 2000-12 were based upon a flow rate of 1.95 MGD rather than the flow rate of 3.1 MGD prescribed in the Order to maintain consistency with the

¹ 40 CFR §122.45(f)(2) states "Pollutants limited in terms of mass additionally may be limited in terms of other units of measurement, and the permit shall require the permittee to comply with both limitations."

antidegradation policy. In addition, USEPA guidance² recommends both mass and concentration limitations for the reasons set forth above.

The 6-month median, maximum daily, and instantaneous maximum limitations are based on the effluent limitations to meet treatment standards (best practicable control technology) and water quality standards contained in the Ocean Plan. Therefore, the 6-month median, maximum daily, and instantaneous maximum limitations contained in Tables 7 and 8 of the Tentative Order are required by federal law.

Comment 6: Effluent Limitations and Discharge Specifications, Table 8 – The Proposed Final Total Residual Chlorine Effluent Limitations Are Infeasible

Request: *Modify the Total Residual Chlorine limits in the permit as requested. (The comment specifically requests readjustment of the final limits to be weekly and monthly averages, and placement of the TSO interim limits within the permit or state that the final limits in the permit are not in effect until the interim limits expire.)*

Response:

1. No change to the final limits is warranted. The final limits are consistent with the Ocean Plan adopted by the State Water Resource Control Board (State Water Board) on September 15, 2009 and approved by the U.S. Environmental Protection Agency (USEPA) on October 8, 2010.
2. The fact sheet contained in Attachment F of the Tentative Order has been modified to include a discussion of the interim effluent limitations for total residual chlorine contained in Tentative Order No. R9-2012-0005 to address FPUD's concern that Tentative Order No. R9-2012-0004 is not clear regarding the application of a time schedule for achieving the final limitations for total residual chlorine.

Comment 7: Effluent Limitations and Discharge Specifications, Table 8 – The TCDD Equivalents Limits have not been adequately justified.

Request: *If no reasonable potential exists after rerunning the analysis as suggested, the TCDD limit should become a performance goal only.*

Note: In addition to this comment, FPUD submitted a separate letter dated July 12, 2012 which solely addressed concerns with the TCDD equivalents reasonable potential analysis (RPA). The response to that separate comment letter is also addressed here.

Response: No change is warranted. In the original and rerun TCDD equivalents reasonable potential analysis (RPA), which follow the procedures outlined in the Ocean Plan Appendix VI, reasonable potential to cause or contribute to an exceedance of TCDD equivalents water quality objectives contained within the Ocean Plan was determined. Thus, TCDD equivalents effluent limits have been adequately justified and remain in the Tentative Order.

² USEPA, Technical Support Document for Water Quality-based Toxics Control, EPA/505/2-90-001, March 1991.

FPUD argues in the July 9 and 12, 2012 letters that some data entered into the RPA was wrong.

1. FPUD argues that when the sample result is less than the reported Minimum Level (ML) and greater than or equal to the reported Method Detection Limit (MDL) (i.e. "Detected, but Not Quantified" or DNQ), the RPA should contain a prescribed ML, not the reported ML (FPUD's laboratory ML). The San Diego Water Board disagrees. A prescribed ML represents the lowest quantifiable concentration in a sample based on the proper application of method-specific analytical procedures (not necessarily the procedures used by FPUD). Whereas, the reported ML is based on the actual analytical procedures and method used by FPUD's laboratory to determine the sample result. Thus, for each sample result, it is more appropriate to use the reported ML associated with that sample result, than a prescribed ML.
2. FPUD argues that the DNQ and Not Detected (ND) values (values below the MDL) should be entered as censored data (entered as "<ML" and "<MDL", respectively). The San Diego Water Board agrees and has rerun the RPA entering all DNQ and ND values as censored, as required by the Ocean Plan. This change has been added in the rerun analysis described below, which still concluded that an effluent limitation must be developed.
3. In the July 12, 2012 letter, FPUD commented that there are some discrepancies in the data set and approach utilized for the draft permit. FPUD hired a contract engineering firm, Larry Walker and Associates, to conduct an independent review of the San Diego Water Board's RPA for TCDD equivalents and to conduct a RPA for TCDD equivalents. The San Diego Water Board appreciates their independent review and analysis. The RPA run by Larry Walker and Associates uses toxicity equivalency factors (TEFs) from an unknown 1998 source. The correct TEFs to use are found on page 27 of the Ocean Plan. Using the 1998 TEF resulted in the discrepancy with the decimal place on one of the data points. Our RPA continues to use the TEFs specified in the Ocean Plan. The RPA run by Larry Walker and Associates uses additional TCDD equivalency data from 2010 and 2011 that was not available when the Permit was first drafted. As described below, the San Diego Water Board has rerun the analysis adding the 2010 and 2011 data, but kept the Ocean Plan TEFs. The new analysis still concluded that an effluent limitation is necessary.
4. FPUD also argues that the analysis should take into account the relative loading input from wastewater treatment plants compared to other sources of TCDD equivalents. The San Diego Water Board disagrees. The RPA for TCDD equivalents was analyzed according to the procedures outlined in the Ocean Plan Appendix VI. These procedures do not take into account relative loading input. Rather, the RPA is calculated based on historical effluent data from FPUD's plant compared to the water quality objectives established by the Ocean Plan. Any TCDD equivalents discharged into receiving waters besides from FPUD's discharge will be regulated and enforced by the San Diego Water Board within our duties provided by the California Water Code and the federal Clean Water Act.

5. FPUD requests that the RPA be conducted using bioaccumulation equivalency factors (BEFs). The San Diego Water Board disagrees. The Ocean Plan prescribes using TEFs in calculating TCDD equivalents limitations, but not BEFs. FPUD goes on to suggest using BEFs specified in federal regulations for the Great Lakes. The permit is required to implement the water quality standards in the Ocean Plan. Using BEFs for the Great Lakes region, which is a freshwater system at higher latitudes, is not appropriate for a discharge to the Pacific Ocean in California.

After consideration of the above comments, the RPA was rerun by the San Diego Water Board, adding the 2010 and 2011 data and also entering ND and DNQ values as censored data. The rerun RPA did not change the outcome of the original RPA; the result was endpoint 1, an effluent limitation must be developed for TCDD equivalents (see attached). The major difference between our RPA and Larry Walker and Associates RPA was the use of the Ocean Plan TEFs vs. the 1998 TEFs, respectively.

FPUD also argues that, if reasonable potential was determined in the rerun for TCDD equivalents, only concentration-based effluent limits should be maintained and mass-based effluent limits removed. The effluent limitation for TCDD equivalents includes mass-based limits as explained in response to Comment No. 4.

Comment 8: Receiving Water Limitations, Para. A, Surface Water Limitations – Additional Clarification of Language Necessary.

Request: *Make requested language changes to Section V.A.* [FPUD requested removal of “or contributes to” and the addition of the following wording.]

Receiving water limitations are site-specific interpretations of water quality standards from applicable water quality control plans, such as the Basin Plan and Ocean Plan. As such, they are required to be addressed as part of the permit. However, a receiving water condition not in conformance with the limitation is not necessarily a violation of this Order. The San Diego Water Board may require an investigation to determine cause and culpability prior to asserting a violation has occurred.

Response: No change to Section V.A is warranted. The section in question pertains to Receiving Water limitations rather than a specific sole-source effluent discharge limitation. Receiving waters have many discharges besides FPUD that may cause or contribute to an exceedance. Although the proposed additional language is correct, it is not necessary to include the language in the Tentative Order for enforcing the receiving water limitations by the San Diego Water Board. In recent years, identifying responsible parties for addressing exceedances of receiving water limitations has generally occurred either through cleanup investigations or through the development of total maximum daily load allocations.

The term “contribute to” is consistent with wording contained in the Clean Water Act. For example, section 402(p)(2)(E) states: “A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to

a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.” The term “contribute to” is used in the Ocean Plan when defining the purpose of the reasonable potential analysis and is also consistent with recently adopted NPDES permits issued by the State Water Resources Control Board such as Order No. 2011-0002-DWQ for pesticide discharges and Order No. WQ 2009-0009-DWQ for construction stormwater.

Comment 9: Receiving Water Limitations, Paragraphs A.1., and Attachment E, Section VIII, A. and B. – The Bacteria Receiving Water Limitations and Extensive Monitoring Requirements are Unnecessary for FPUD’s Permit.

Request: *Remove total coliform and fecal coliform from receiving water limitations and monitoring requirements, or modify the receiving water limitations and monitoring requirements to only require enterococcus monitoring. Modify the monitoring requirements to lessen the burden of reduced monitoring provisions.*

Response: No change is warranted.

FPUD argues that the Tentative Order should not include receiving water monitoring for bacteria, since its facility only discharges disinfected effluent and is not a substantial source of bacterial loading to the ocean. FPUD argues that since its facility is not a substantial source, bacterial receiving water monitoring is a burden.

The San Diego Water Board disagrees with FPUD’s requested change in the receiving water monitoring. The Tentative Order does not require disinfection of the effluent discharged to the Oceanside Ocean Outfall to meet the bacterial objectives in the receiving water. As a consequence, under the Tentative Order, FPUD could terminate the disinfection of the effluent discharged to the Oceanside Ocean Outfall, which will result in discharges of elevated concentrations of bacteria to the ocean.

FPUD also argues that the bacterial receiving water monitoring should only include enterococcus, not total coliform, fecal coliform and enterococcus. The San Diego Water Board disagrees. The Ocean Plan specifies water quality objectives for bacterial characteristics in terms of total coliform, fecal coliform and enterococcus. Therefore to ensure compliance with the Ocean Plan’s water quality objective, the Tentative Order requires monitoring for all three. Because monitoring for all three bacterial characteristics is necessary to meet water quality standards, Water Code section 13267 is not applicable, and therefore the San Diego Water Board does not need to provide a cost-benefit analysis.

FPUD argues that the frequency for the “reduced” receiving water monitoring (Table E-7 and E-9) should be less than the “intensive” receiving water monitoring (Table E-8 and E-10). The San Diego Water Board disagrees. The reduced monitoring does not refer to frequency, but rather refers to number of samples and/or parameters (or determination). The near shore “reduced” receiving water monitoring (Table E-7) does not require the mid-depth monitoring that is required under the near shore “intensive” receiving water monitoring (Table E-8). The off shore “reduced” receiving water

monitoring (Table E-9) does not require monitoring for Conductivity, Temperature, Depth, Dissolved Oxygen, Light Transmittance, and pH that is required under the off shore "intensive" receiving water monitoring (Table E-10).

FPUD argues that the frequency for the "reduced" receiving water monitoring should be reduced from monthly to semiannual to match the effluent monitoring for Ocean Plan Table B parameter. The San Diego Water Board disagrees. The frequency is appropriate for bacteria in the receiving waters.

FPUD argues that the requirement to meet limits and performance goals to qualify for Reduced Monitoring should be limited to only those limits and goals related to bacteria. The San Diego Water Board disagrees. The current language provides flexibility for the San Diego Water Board to evaluate all factors related to particular exceedance(s) of a effluent limitation/performance goal before concluding that intensive monitoring is required.

Comment 10: Section VI., Para. A.2.c. and VII.A. – Remove or Modify Problematic Compliance Determination Language.

Request: *Maintain the Compliance Determination language in the current permit, or alternatively remove all references to "violation(s)" or conclusions that the permittee "shall be deemed out of compliance" and change the wording in the compliance determination language to reflect that exceedances are "alleged violations" and that exceedances "may" be deemed violations, since they may also NOT be deemed violations if some defense or excuse exists. Alternatively, just reference the Ocean Plan or the statewide Enforcement Policy for how compliance determinations will be made.*

Response: Section VI.A.2.c and Section VII have been modified to clarify that the San Diego Water Board has discretion in determining whether reasons for noncompliance with an effluent limitation do or do not constitute a violation of an effluent limitation.

Comment 11: Section VI.C.5.a – Specifically Define "Treatment Plant Capacity" Consistently Throughout the Permit to Ensure Excess Reporting on Capacity Levels not Required.

Request: *Either add a new definition of "Treatment Plant Capacity" to Attachment A, or revise Section VI.C.5.a. to reference the capacity limits set forth in Prohibition III.C.*

Response: The requested definition of "Treatment Plant Capacity" has been included.

Comments from underline strikeout:

In addition to their comment letter, the Fallbrook Public Utility District provided an underline/strikeout document including numerous requested changes to the Tentative Order. Reasonable changes have been included in the Errata. Where comments in the underline/strikeout document duplicate comments in their letter, our response may not be repeated. We recommend that the reader review these responses to comments with the underline/strikeout document provided by FPUD.

1. Prohibition, Section III.B, Page 9, Comment bb1: FPUD stated it did not request deletion of this language and if references effluent limits, it would be consistent with bypass regulations.

Response: The phrase "*containing concentrations of pollutants in excess of those in Tables A or B of the Ocean Plan*" was removed from the current permit because the conditional phrase "*except as allowed by federal Standard Provisions I.G or I.H of this Order*" was added. The change clarifies that there are additional conditions prescribed for a bypass than just compliance with effluent limitations.

2. Prohibition, Section III.C Page 9, Comment bb2: Because a flow restriction exists, mass limits are unnecessary, including both creates additional liability and over regulation. If flow limits are maintained, then the mass limits should be removed.

Response: Please see response to Comment No. 4. In addition, expressing limits in terms of concentration as well as mass at the same time as prescribing a limitation on flow encourages the proper operation of the treatment, collection, and disposal systems at all times.

3. Prohibition, Section II.D and E., Comment bb3: These prohibitions duplicate Attachment G prohibitions and should be removed. FPUD's previous comments provided reasons why duplication should be avoided.

Response: Please see response to comment No. 3.

4. Table 7, Page 10, Comment bb4: No impracticability analysis has been performed, nor any 13263/13241 analysis as required by the California Supreme Court decision in the *Burbank* case since this is more stringent than required by federal law at 40 C.F.R. Part 133 and Section 122.45(d)(2). Alternatively, these should be added as performance goals only.

Response: Please see response to comment Nos. 4 and 5. The limitations in the Tentative Order are not more stringent than required by federal law.

5. Table 8, Page 10, Comment bb5: There is no need for mass limits for these constituents and they should be removed or included only as performance goals. In addition, for chlorine, the final limits should not be applicable until after the interim limits in the TSO are expired. Otherwise, the interim limits should be included in the permit since this is a new effluent limit for which a compliance schedule is necessary.

Response: Please see response to comments Nos. 4 and 6.

6. Table 9, Page 12, Comment bb6: FPUD appreciates that the mass goals were deleted as not required.

Response: Comment noted. The absence of mass goals for performance objectives is consistent with other NPDES permits for ocean discharging POTWs.

7. Surface Water Limitation, Section V.A, page 16, Comment bb7: We did not request this change and ask that this not be made since any molecule could be argued to be a contribution. This language is not required and not justified in the fact sheet. If this is maintained, we request that our language be included.

Response: Please see response to comment No. 9.

8. Surface Water Limitation, Section V.A .1, page 16, Comment bb8: None of our previous comments on bacteria were addressed and we request that the Regional Board respond to those comments.

Response: Please see response to comment No. 9.

9. Provision, Section VI.A.2.c, Page 18, Comment bb9: Our comments were not addressed. This language also preserves the RWQCB's enforcement discretion.

Response: Please see response to comment No. 10.

10. Provision, Section IV.A.2.h, Page 19. Comment bb10: Our comment that these were duplicative was not addressed.

Response: Please see response to comment No. 3.

11. Provision, Section IV.C.2.c., page 22, Comment bb11: Didn't respond as to why changed from 6 months.

Response: Since FPUD shares the Oceanside Ocean Outfall, the language is consistent with the City of Oceanside's NPDES Permit, Order No. R9-2011-0016.

12. Provision, Section IV.C.5.a., page 23, Comment bb12: Insert reference to new definition or add that this is "during dry-weather months (May to October) a monthly average effluent flow of 2.7 MGD, and during wet-weather months (November to April) a monthly average effluent flow of 3.6 MGD."

Response: Please see response to comment No. 11.

13. Compliance Determination, Section VII.A., page 27, Comment bb13: Compliance with the effluent limitations contained in section IV of this Order will be determined in accordance with the Ocean Plan and other regional and statewide policies.

Response: Please see response to comment No. 10.

14. Compliance Determination, Section VII.B2.d., page 28, Comment bb14: This section should be unnecessary if mass limits are removed. Alternatively, those additional limits for mass could be made performance goals since not required.

Response: Please see response to comment No. 4

15. Attachment A., page A-5, Effluent Limitation, Comment bb15: This term is not used in the permit and should be removed.

Response: The term is used in Attachment G, Basin Plan Prohibitions.

16. Attachment A., page A-6, Method Detection Limit, Comment bb16: The date of the document must be set to avoid prospective incorporation by reference, which is of dubious validity per applicable OAL rulings.

Response: No change is warranted. If the Method Detection Limit in the Code of Federal Regulations change in the future, FPUD will be expected to use the newly promulgated method detection limits.

17. Attachment A., page A-9, State Water Quality Protection Areas, Comment bb17: There are exceptions related to wastewater outfalls.

Response: Comment noted.

18. Attachment A., page A-9., Untreated or Partially Treated Wastewater, Comment bb18: This is now inconsistent with the new language in the spill requirements above at VI.C.2.b.

Response: The definition is consistent with the referenced section because that section also includes reporting treated wastewater spills.

19. Standard Provision, Attachment D, Section B.5., page D-6, Comment bb19: The previous comments provided the problem with certifying the accuracy of toxicity results. Since people have to certify under penalty of perjury, this modification is necessary and sanctioned by EPA. Our comment letter provides an alternate footnote that could be added.

Response: Comment noted. The footnote has been provided in the errata.

20. Receiving Water Monitoring, Attachment E, Section VIII.B.1., page E-13, Comment bb20: How is this less intensive when the same frequency as the other tables?? If meeting bacteria limits, then this should be not required or monitored biannually or seasonally.

Response: Please see response to comment No. 9.

21. Receiving Water Monitoring, Attachment E, Section VIII.B.2., page E-13, Comment bb21: Same issue with the one molecule problem, especially for bacteria which is alive and can grow and multiply.

Response: Please see response to comment No. 8.

22. Receiving Water Monitoring, Attachment E, Section VIII.C.1., page E-14, Comment bb22: Same comment as on Table E-7.

Response: Please see response to comment No. 9.

23. Receiving Water Monitoring, Attachment E, Section VIII.D., Comment bb23: Our comments as to the justification and analysis required for this additional monitoring was not provided.

Response: Please see response to comment No. 9.

24. Fact Sheet, Attachment F, Page F-5, Comment bb24: As previously stated, these are not correct and should be corrected for accuracy.

Response: Comments on the previous draft of the Tentative Order referred to a letter to Oceanside, but did not identify what letter. The values in Table F-2 is reference information only and changes to it would not change permit requirements.

25. Fact Sheet, Attachment F, Page F-7, Comment bb25: There were no mass limits, so reporting should not have been required.

Response: Although mass limits were not included, mass reporting was still required.

26. Fact Sheet, Attachment F, Page F-12, Comment bb26: This is incorrect. Part 133 does not require mass limits except in lieu of an 85% removal requirement, yet this permit has concentration, mass and percent removal requirements, which is more stringent than required by federal law.

Response: Please see response to comment No. 4. Including mass limits is not more stringent than required by federal law.

27. Fact Sheet, Attachment F, Page F-13, Comment bb27: Instantaneous maxima are more stringent than required by federal law, and no mass limits are contained in Table A.

Response: Please see response to comment No. 4 and 5. Including instantaneous maximum is not more stringent than required by federal law.

28. Fact Sheet, Attachment F, Page F-15, Comment bb28: The Fact Sheet fails to have RPA for all effluent limitations in violation of 40 CFR 122.44(d)(1). We have asked for the RPA spreadsheets and would like them ASAP.

Response: 40 CFR 122.44.(d)(1) does not require fact sheets to include RPA for all effluent limitations. A summary of the RPA was provided in the fact sheet. Nevertheless, the RPA calculations were emailed to FPUD on July 9, 2012 which was not in time to edit the comment letter.

29. Fact Sheet, Attachment F, Page F-16, Comment bb29: This should be based on the actual concentration in the outfall upon discharge after mixing. This assumes the concentration is not diluted by Oceanside's flows.

Response: The City of Oceanside does not currently have an effluent limitation on total residual chlorine. Nothing prevents the City of Oceanside from currently chlorinating their discharge, thereby making the dilution ineffective. In fact, the City of Oceanside may be in the process of planning to chlorinate their effluent in the future to meet bacteria standards.

30. Fact Sheet, Attachment F, Page F-20, Comment bb30: A summary is not adequate, you need justification for going beyond federal law requirements.

Response: Please see response to comment No. 2. For individual pollutants, the Tentative Order requirements are not more stringent than federal law.

31. Fact Sheet, Attachment F, Page F-22, Comment bb31: To avoid violating or being more stringent than federal law, these should be performance goals.

Response: Please see response to comments Nos. 2, 4, and 5. The limitations in the Tentative Order are not more stringent than required by federal law.

32. Fact Sheet, Attachment F, Page F-34, Comment bb32: Definition of "treatment plant capacity" needs to be included.

Response: Please see response to comment No. 11.

2012-07-13 TCDD Revised.txt
*** Reasonable Potential Calculator Output, RPsCalc v2.0 ***
Jul 13, 2012 12:14:50

Inputs:

1. Data Notes : TCDD (pg/L)
2. WQ Objective Conc. (Co) : 0.0039
3. Background Conc. (Cs) : 0
4. Dilution Ratio (Dm) : 87
5. Percentile : 95
6. Confidence Level : 95

After Mixing Data Summary:

	<u>N</u>	<u>%</u>	<u>Min</u>	<u>Max</u>
Censored Data	4,	66.6667,	0.0369,	0.4543
Detected Data	2,	33.3333,	0.0000,	0.0070
Total	6			

Reasonable Potential Analysis Summary:

RPA Endpoint 1.

An effluent limitation must be developed for the pollutant. Monitoring is required.

Rationale:

Detected observation(s) after complete mixing of 0.70454545e-2, exceed the Co of 0.0039.

Unsorted Input Data, Ce:

0.0017, <3.25, <39.98, 0.62, <11.311, <10

Sorted Input Data, Ce:

0.0017, 0.62, <3.25, <10, <11.311, <39.98

Sorted Input Data after complete mixing, X-obs = (Ce + Dm * Cs) / (Dm + 1):

0.0000, 0.0070, <0.0369, <0.1136, <0.1285, <0.4543

References:

Programmed by Steve Saiz, CalEPA, SWRCB, ssaiz@waterboards.ca.gov, April 26, 2005