



August 16, 2014

#30

Dear Ms. Townsend,

I would like to begin my comments by acknowledging the work of State and Regional Board staff members in completing the proposed NPDES permit. Their sincere, vigilant approach to understand the issues and to develop solutions over the course of two and a half years, under the guidance of Pamela Creedon and Diana Messina, is a model of collaborative work and leadership. They have managed to comprehend the complexity of routine drinking water operations and comprehensively address several issues that I thought would be very difficult to reconcile. The permit is compliant with existing law and balances the protection of beneficial uses. The replacement of various regional permits with a statewide permit, that is tailored to and covers nearly all discharge practices of the drinking water industry, is a judicious decision that will improve the efficiency of all our work and serve the public well.

The effort to improve discharge requirements for drinking water systems in Region 5, and later state-wide, originated with the following objectives:

1. recognizing the mandatory nature of our discharges
2. their routine nature
3. the universality of discharge types, methods, and practices within the water industry
4. the poor use of financial resources
5. the de minimis nature of the discharges
6. the poor fit of Low Threat Permits to regulating drinking water discharges
7. the drinking water industry's desire for a NPDES permit that matched its discharges
8. the need for legal protection for discharging.

30.1

Before introducing minor comments, I have one over-riding concern that I believe needs to be addressed, and hopefully sponsored by the State Board as a related high, but separate, priority. It is the issue of Minimum Mandatory Penalties (MMP's). The current draft permit depends upon imperfect bmp's for mandatory, low or no-impact discharges. There should be some recognition, as there is in the proposed permit (see page F-61, 2(b), BMP Iterative Approach), that bmp's for regulating discharges are imperfect. There will certainly be inconsequential violations of pH, turbidity, and erosion control, especially as these bmp's are improved. These **de minimis** discharges should not be subject to MMP's.

If the violations are the result of willful misconduct or egregious neglect, administrative civil liabilities should be used as the penalty. De minimis discharges, by their nature, should not be subject to such aggressive punitive measures as MMP's. Again, the proposed permit itself acknowledges that "the discharges covered under this Order are of low threat and low complexity." There are better places to spend public money than for fines, passed from one public agency to another, especially in a time of drought when revenue to water utilities is cut drastically as the public is asked to reduce its water demand. If these types of discharges dictate a unique and more benign permit, they also suggest a more benign penalty.

30.1  
cont.

Further, if the State Board grants an exception to the SIP because the water purveyor is mandated to discharge, why should fines be so steep if the purveyor is truly exercising due diligence in the application of current bmp's? The Mitigated Negative Declaration also begs the question. Finally, the Anti-degradation Policy (page F-15) especially would seem to provide some justification for providing a new or no financial penalty for potable water discharge violations, especially minor ones if a bmp fails to hold up. The SIP exception, the MND, and the Anti-degradation Policy all provide justification for a different view of the applicability of MMP's to potable discharge violations.

Minor comments:

30.2

Page A-3. The definition of potable water should be included here. The definition as found in the body of the proposed permit is not that recognized by the water industry. Better yet, the language should replicate that used in the CDPH and SDWA regulations, i.e. "drinking water."

Page A-3, Secondary Maximum Contaminant Level. This is not the definition of secondary contaminants. Secondary contaminants are exclusively contaminants of an aesthetic nature, i.e. taste, odor, color. They should have no place in the proposed permit.

30.3

Page C-3. Copper and Zinc Management. I am unaware of any copper-based herbicides allowed in potable water. Perhaps in the treatment process, prior to potability being ensured? This should be deleted from the proposed permit.

30.4

Page E-3, B(2). Shouldn't this paragraph conclude with "(3) report the monitoring results."?

30.5

Page E-4, Table E-4, Parameter, Flow. Why is the Sample Type "Estimate"? Planned discharges should all be capable of being metered.

30.6

Page E-5, VI. I believe the language should be changed to read: "Three (3) days prior to initiation of a planned discharge (or retroactively within 24-hours after the Discharger is **compelled** [or some such word] to conduct an urgent planned discharge...". It is relatively common that the need for large discharges present themselves unexpectedly.

30.7

Page F-4, 2. Raw Water. This is not the universally understood definition for potable water as used in the industry.

30.8

Page F-10, Scenario No. 2, Applicable Permit Requirements. Turbidity from potable surface or groundwater that meets secondary standards should never be above the limits set in the proposed permit. If this turbidity is caused by fines in the distribution system, this can be applicable to both surface water and groundwater supplied distribution systems.

30.9

I have read the draft comments from ACWA and the AWWA CA/NV Section and generally concur with their specific comments as well. I do believe the proposed permit, in its body, is easier to understand and comply with than is perhaps alluded to in those comment letters.

Sincerely,

Rick Hydrick

Former Water Operations Manager for the South Tahoe Public Utility District (1988-2005) and the San Juan Water District (2005-2013) and original member of the Region 5 Drinking Water Discharge Permit Work Group