



June 7, 2007

Mr. Dan Warner
California Regional Water Quality Control Board
Central Valley Region
Redding Branch Office
415 Knollcrest Drive, Suite 100
Redding, CA 96002

Re: Draft NPDES Permit for Burney Forest Power and Shasta Green Burney Sawmill-
Cogeneration Facility - Shasta County Order No. 5-00-257 (NPDES No. CA0082490)

Dear Mr. Warner,

Our environmental staff has reviewed the draft NPDES Permit for Burney Forest Power and Shasta Green Burney Sawmill. Please find our requested changes on the following pages. The comments contained herein are commentary and editorial in nature and are directed to CRWQCB staff for "notes to file" and are not intended to contest the permit.

As always, if you have any questions or need any additional information, please feel free to contact me at (530) 335-5023.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug S. Tomison".

Douglas S. Tomison,
Plant Manager
North American Energy Services
On Behalf of Burney Forest Power

I. General Comments:

A. NAES as Permittee

Please remove all references to North American Energy Services (NAES.) NAES provides services at the direction of the ownership, and therefore does not believe that it is appropriate to designate NAES as "operator" or "permittee" for environmental regulatory purposes. For regulatory purposes, the "Operator" is the entity that has overall responsibility for and control of the operation of the facility, which, in the case of the cogeneration power plant, is Burney Forest Products. Burney Forest Products (BFP) directs and manages NAES in its performance of power plant services in accordance with a service contract. Under the terms of the contract, NAES does not provide capital for facility operations, maintenance, repair or improvements and NAES is not authorized to make final decisions on budgeting and spending, environmental controls and projects, facility dispatch, staffing levels, equipment modifications/upgrades, permitting, etc. NAES' services/activities are subject to the approval of BFP, hence BFP maintains overall operational control. On this basis, it is not appropriate to list NAES on the permit.

Shasta Green owns, manages and operates the adjacent sawmill. NAES provides no services to Shasta Green. As provided in the introduction to the application package for the NPDES permit renewal, "BFP and Shasta Green will operate under the permit, for which BFP is responsible."

The Form 200 and 3510-2F applications submitted to the CRWQCB which identified NAES as an operator were prepared by an interim facility manager and an independent consultant, and were submitted without prior review or approval by NAES corporate legal or environmental personnel.

Please remove NAES from the NPDES permit for Burney Forest Products/Shasta Green.

B. Scope and Type of Permit

1. Permittee objects to this complex, costly draft individual permit and asserts it is entitled to authorization under the current Statewide General Storm Water Permit for industrial activities. The scope of this draft permit far exceeds that contemplated by Federal and State storm water rules for the BFP facility.

2. The storm water rules regulate specific industries for their operation-specific potential impacts upon storm water quality. The draft permit goes far beyond parameters relating to facility operations, and imposes extensive monitoring and effluent limits for parameters (metals, whole effluent toxicity) that are clearly related to regional soil quality. These soil constituents will be found in storm waters from natural background areas, and from all sites in the region with anthropogenic disturbance, rather than just the sites with operations addressed by the storm water rules. To support this over-reaching approach, the draft permit mischaracterizes worst-case results from single grab samples during major storm events over a 5+ year period as "representative" and "average". The water quality of Canyon Creek is not currently impaired. Enhanced regulation of metals in BFP storm water effluent will impose substantial economic hardship and potential liability, but will produce little potential environmental benefit.

3. The draft permit states that the discharge is storm water and also makes numerous references to the "Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California" (Phase 1 of the Inland Surface Waters Plan and the Enclosed Bays and Estuaries Plan)("SIP"). Finding II.J. concludes, "Requirements of this Order implement the SIP." Fact Sheet provision III. cites "Applicable Plans, Policies, and Regulations" . Provision III. E. 1. references the SIP, and states "The requirements within this Order are consistent with the Policy". However, Footnote #1 on Page #1 of the SIP specifically states, "This Policy does not apply to regulation of storm water discharges."

Based on the above, Permittee objects to the excessive scope of the draft individual permit, asserts it is entitled to authorization under the current statewide general permit for industrial activities, and requests authorization under the general permit instead of this draft individual permit.

II. Specific Comments:

NOTE: The following specific comments should not be construed to change Permittee's contention that it is entitled to regulation under the statewide general permit, and Permittee's request for authorization under the general permit.

A. Page 5, Findings II.B.

The last sentence in Paragraph 1 states, "Discharges of ash and cooling tower sludge to surface waters is prohibited." This prohibition should be moved to Page 11, Findings III.F.

B. Page 9, Findings II.M.

The first paragraph of this Finding states "In addition, this Order contains limitations more stringent than the minimum, Federal technology-based requirements that are necessary to meet water quality standards. These limitations are more stringent than required by the CWA." The second paragraph states "Collectively, this Order's restrictions on individual pollutants are no more stringent than required to implement technology-based requirements of the CWA and the applicable water quality standards for purposes of the CWA." These statements are contradictory. Finding II.H concludes "Canyon Creek is not listed as a WQLS in the 303(d) list of impaired water bodies." Because Canyon Creek is not impaired, Permittee asserts that this permit's restrictions on individual pollutants should be no more stringent than required to implement technology-based requirements.

C. Page 12, Provision V.A.

1. In introductory paragraph, after "the discharge shall not cause the following in Canyon Creek:" please add "as measured at monitoring point RSW-002."

D. Page 12, Provision V.A.2.b

1. Correct equation by replacing "1.36672" with "1.136672" so it looks like the following:

$$\text{CTR Criteria Maximum Concentration (1-hour Average, dissolved) = } (\exp\{1.128[\ln(\text{hardness})] - 3.6867\}) \times (1.136672 - \{\ln(\text{hardness})\} \times [0.041838])$$

E. Page 13, Provision V.A.6.c.

1. Dissolved oxygen is not an appropriate parameter for storm water discharges. If necessary, please replace "5.0/7.0" with "7.0"

F. Page 13, Provision V.A.9.a

1. Correct equation by replacing "1.45712" with "0.145712" so it looks like the following:

$$\text{CTR Criteria Continuous Concentration (4-day Average, dissolved) =} \\ (\exp\{1.273[\ln(\text{hardness})] - 4.705\}) \times (1.46203 - \{[\ln(\text{hardness})] \times \\ [0.145712]\})$$

G. Page 13, Provision V.A.9.b

1. Correct equation by replacing "1.45712" with "0.145712" so it looks like the following:

$$\text{CTR Criteria Maximum Concentration (1-hour Average, dissolved) =} \\ (\exp\{1.273[\ln(\text{hardness})] - 1.460\}) \times (1.46203 - \{[\ln(\text{hardness})] \times \\ [0.145712]\})$$

H. Page 13, Provision V.A.11.

1. Please provide/include averaging procedure this provision refers to.

I. Page 15, Provision V.A.23.a

1. Correct equation by replacing "-" with "+" before 0.884 so it looks like the following:

$$\text{CTR Criteria Continuous Concentration (4-day Average, dissolved) =} \\ (\exp\{0.8473[\ln(\text{hardness})] + 0.884\}) \times (0.986)$$

J. Page 15, Provision V.A.23.b

1. Correct equation by replacing "-" with "+" before 0.884 so it looks like the following:

$$\text{CTR Criteria Maximum Concentration (1-hour Average, dissolved) =} \\ (\exp\{0.8473[\ln(\text{hardness})] + 0.884\}) \times (0.978)$$

K. Page 19, Provision VI.A.2.q

1. The frequency of instrument calibration varies by instrument and analytical method. Please replace "at least yearly" with "the the frequency prescribed by the approved analytical method, or, if not prescribed by method, at the frequency recommended by the instrument/device manufacturer".

L. Page 21, Provision VI.C.2.a.

1. Please replace "removed" with "reduced" and "background" with "acceptable". 100% removal is not attainable, and storm water from the log deck combines with drainage from the larger remainder of site prior to discharge.

M. Page 24, Provision VI.C.4.a.

1. Please change the word "Treatment" to "Storm Water."

N. Page 24, Provision VI.C.4.a.ii.

1. Please replace the word "wastewater" with "storm water".

O. Page 25, Provision VI.C.4.a.v.

1. Please remove this provision. Storm water pond will accumulate storm water as received, and discharge will commence when pond reaches capacity. Also, provision refers to a "Land Discharge Specification" which has not been provided for review, nor identified adequately to research.

P. Page E-3, Attachment E Table E-2

1. Please clarify that all effluent monitoring specified for metals will be for the dissolved fraction. This is necessary to relate monitoring results to CTR and Basin Plan receiving water limitations presented in section V.A., beginning page 11.

2. Please reduce frequency specified for Acute Toxicity monitoring to twice during the life of the permit. Facility has routinely monitored acute toxicity under the present permit, with excellent results. A reduction in monitoring frequency is warranted.

3. Please reduce frequency specified for Chronic Toxicity monitoring to every other year starting in the second year. Facility has monitored for chronic toxicity under the present permit, with excellent results. Present permit allowed a reduction in monitoring frequency after two years of acceptable results.

Q. Page E-3, Attachment E, V.A.1.

1. Please reduce frequency specified for Acute Toxicity monitoring to twice during the life of the permit. Facility has monitored for acute toxicity under the present permit, with excellent results.

2. Delete the reference to effluent ammonia sampling.

R. Page E-4, Attachment E, V.B.1.

1. Please reduce frequency specified for Chronic Toxicity monitoring to every other year starting with the second year of the permit. Facility has monitored for chronic toxicity under the present permit, with excellent results. Present permit allowed a reduction in monitoring frequency after two years of acceptable results.

S. Page E-5, Attachment E, V.B.7.

1. Please revise "E-4" to "E-3".

T. Page E-7, Attachment E Table E-4

1. Please clarify that all receiving water monitoring specified for metals will be for the dissolved fraction. This is necessary to relate monitoring results to CTR and Basin Plan receiving water limitations presented in section V.A., beginning page 11.

U. Page E-8, Attachment E Table E-5

1. Please remove all monitoring parameters except freeboard from this table. As the Log Deck Recycle Pond and Power Plant Pond are not discharged to the receiving water, the monitoring specified is unnecessary to protect the receiving water.

V. Page E-10, Attachment E X.B.3.

1. Please remove references to calculation of removal efficiencies for BOD and Total Suspended Solids.

W. Page F-6, Attachment F II. SAWMILL

1. Please remove the terms "process water" and "sediment-laden" from this description. "Sediment-laden" is an inappropriate characterization.

X. Page F-7, Attachment F II. C.

1. Table F-2 does not provide a "summary" of self-monitoring data, and the monitoring data presented are not "representative" of facility effluent. Instead, the data presented represent the single, worst-case results from over 5 years of extensive effluent monitoring. Data in Table F-2 are from single storm water sampling events, generally during or following violent storm events. In no case do they truly represent weekly or monthly "average" results, but rather reflect the results from single grab samples taken for the period. As presented, Section C. grossly mischaracterizes effluent quality from the facility. Please revise to reflect that the results presented are "single, worst-case historical results from storm water samples taken during extreme weather conditions".

Y. Page F-21, Attachment F.V.A.1

1. Rewrite the last sentence of the paragraph to read, *"This Order contains Receiving Surface Water Limitations based on the Basin Plan numerical and narrative water quality objectives and California/National Toxics Rule criteria for biostimulatory substances, cadmium, copper, chemical constituents, color, dissolved oxygen, floating material, iron, lead, oil and grease, pH, salinity and electrical conductivity, sediment, settleable material, silver, suspended material, tastes and odors, temperature, toxicity, turbidity, and zinc."* This change corrects minor typographical errors and eliminates references to radioactivity and pesticides.

Z. Page F-24, Attachment F.V.A.1.I.

1. Please remove this section to eliminate the reference to a receiving water limit for pesticides.

AA. Page F-29, Attachment F.VI.C.1

1. Change to require Acute Toxicity testing to twice during the life of the permit.

BB. Page F-29, Attachment F.VI.C.2

1. Change to require Chronic Toxicity testing to every other year with the first required in the second year of the permit.

CC. Page F-30, Attachment F.VII.B.1.b.

1. Modify the last sentence by replacing the word "inorganic" with "criteria or".