

ITEM: 14

SUBJECT: United Auburn Indian Community, Thunder Valley Casino Wastewater Treatment Plant, Placer County

BOARD ACTION: *Consideration of NPDES Permit Renewal and Time Schedule Order*

BACKGROUND: The United Auburn Indian Community (Discharger) is the owner and operator of the Thunder Valley Casino Wastewater Treatment Plant (Facility). Tertiary treated effluent is currently discharged to Orchard Creek, a water of the United States. The Discharger is completing the first phase of a two-phase Facility expansion to accommodate increased flows from a nearly completed gaming and restaurant facilities expansion project that includes a new hotel and performing arts center.

The proposed NPDES permit renewal is for a minor discharge, and authorizes an increase in regulated flow from 0.35 million gallons per day (MGD) to 0.875 MGD. The proposed Permit renewal also contains new and/or more stringent effluent limitations for aluminum, ammonia, cadmium, chlorine residual, delta-BHC, endrin aldehyde, iron, lead, manganese, mercury, and zinc. The effluent limitations for aluminum, ammonia, and chlorine residual are based on implementation of the Basin Plan's narrative toxicity objective. USEPA's National Recommended Ambient Water Quality Criteria for protection of aquatic life is the basis of the interpretation of the narrative objective and the effluent limitation. The proposed effluent limitations for iron and manganese are based on implementation of the Basin Plan's narrative chemical constituent objective. The Department of Public Health's (DPH's) Secondary Maximum Contaminant Levels for protection of human health is the basis of the interpretation of the narrative objective and the effluent limitation. The proposed Time Schedule Order (TSO) includes a time schedule for compliance with the new and more stringent effluent limitations in which the Discharger is unable to immediately comply.

The tentative NPDES permit issued for public comments included the Discharger and Hydrosience Operations, Inc. as co-dischargers. Central Valley Water Board staff has been provided with additional information demonstrating that the contractual relationship between the Discharger and Hydrosience Operations, Inc. is short-term and that the Discharger maintains primary control of operations of the Facility. Therefore, Central Valley Water Board staff have removed Hydrosience Operations, Inc. as a discharger in the proposed permit.

ISSUES: The Central Valley Water Board office received public comments from the following interested parties:

- the Discharger;
- California Sportfishing Protection Alliance (CSPA);
- Envy, LLC;
- Dry Creek Conservancy;
- Sierra Club Placer Group;
- Horseshoe Bar Fish and Game Preserve;
- Ophir Property Owners Association and Auburn Ravine Preservation Committee;
- Save Auburn Ravine Salmon and Steelhead (SARSAS);
- Granite Bay Flycasters; and
- the California Salmon and Steelhead Association.

The major issues discussed in the public comments are summarized below.

Further detail on all comments is included in Central Valley Water Board staff Responses to Comments.

Discharger Comments:

Publicly Owned Treatment Works (POTW): The Discharger comments that the Facility is not a POTW, but rather a private facility owned solely by the Discharger. Central Valley Water Board staff does not concur. A POTW, as defined in 40 CFR 403.3, is a treatment works which is owned by a State or municipality (as defined in Clean Water Act (CWA) section 502(4)). CWA section 502(4) defines municipality, in part, as an Indian tribe or an authorized Indian tribal organization. The Facility is owned by an authorized Indian tribal organization. Therefore, the Facility is a POTW.

Department of Public Health (DPH) Jurisdiction: The Discharger comments that DPH does not have jurisdiction because areas proposed for the application of recycled water are located on land that is held in trust by the federal government for the Indian tribe. Central Valley Water Board staff concurs that DPH does not have jurisdiction where recycled water used for landscape irrigation does not leave the Discharger's property. The proposed NPDES permit has been revised to require the Discharger to obtain the proper approvals for recycled water for the use of landscape irrigation from USEPA rather than DPH. Where Title 22 or equivalent requirements are included in the proposed NPDES permit for discharges to surface water that leave Indian land, DPH has jurisdiction. Therefore, references to DPH regarding the surface water discharge have not been revised.

CSPA Comments:

Discharges to Impaired Waterbodies: CSPA comments that a new or expanded wastewater discharge may not be allowed into an impaired waterway unless all existing discharges have been identified and are subject to compliance schedules. Central Valley Water Board staff does not concur. The cited provision applies if a total maximum daily load (TMDL) has been adopted for the impaired waterbody. The complete regulatory provision cited only applies to a "new source or new discharger," and only applies when a TMDL is in place. Despite the proposed increased flow, the discharge from the Facility is neither a new source nor a new discharger. Additionally, TMDLs have not been adopted for Orchard Creek or downstream waterbodies.

Best Practicable Treatment or Control (BPTC): CSPA comments that the Discharger should be required to provide BPTC of the discharge to assure pollution will not occur and that the highest water quality consistent with the maximum benefit to the people of the State will be maintained in accordance with the Antidegradation Policy (Resolution 68-16). Central Valley Water Board staff concurs that the Discharger is required to provide BPTC of the discharge, but has determined that the Discharger's wastewater treatment process meets or exceeds the highest statutory and regulatory requirements and meets or exceeds BPTC. as discussed in the Fact Sheet of the proposed permit, the existing wastewater treatment facility produces Title 22 tertiary treated effluent that results in minimal water quality degradation and alternative control measures identified and evaluated were infeasible or not consistent with maximum benefit to the people of the State. .

Data for Reasonable Potential Analysis (RPA): CSPA comments that the Central Valley Water Board has failed to use valid, reliable and representative data in developing limitations by utilizing only three years of data in assessing reasonable

potential. Central Valley Water Board staff does not concur. The use of the most recent 3 years of monitoring data is representative of the current treatment plant upgrades and discharge conditions. The data used for the determination of the proposed effluent limitations in the NPDES permit was the most valid, reliable, and representative effluent data and instream background data available.

CSPA; Envy, LLC; Dry Creek Conservancy; Sierra Club Placer Group; Horseshoe Bar Fish and Game Preserve; Ophir Property Owners Association and Auburn Ravine Preservation Committee; SARSAS; Granite Bay Flycasters; and the California Salmon and Steelhead Association

Antidegradation Analysis: The above commenters stated that the proposed increased discharge should not be permitted due to an insufficient antidegradation analysis. The commenters state that the proposed NPDES Permit should require the Discharger to cease the discharge and regionalize with the existing City of Lincoln Wastewater Treatment and Reclamation Facility, designed to operate as a regional facility.

During the planning and design stages of the expanded gaming operations and hotel project, the Discharger evaluated several alternatives to the increased discharge, including construction of a temporary pipeline to the City of Lincoln facility, or additional treatment using reverse osmosis to remove zinc. The Discharger had also entered into a Memorandum of Understanding (MOU included in the agenda package) with the City of Lincoln, and submitted pipeline construction plans for a temporary pipeline to Placer County for approval. (Letter from Placer County included in agenda package.) The antidegradation analysis did not conclude that regionalization or advanced treatment were not economically feasible at this time due to the timing of the gaming expansion and hotel project. The on-site treatment facility expansion has already been initiated to provide Title 22-equivalent treatment to the additional wastewater flows. The Discharger also states that it will be a partner in regionalization when other a permanent pipeline is feasible to serve dischargers in the vicinity of its land.

The Discharger provided a complete Report of Waste Discharge and an antidegradation analysis that follows the guidance provided by State Water Board Administrative Procedures Update (APU) 90-004. Pursuant to the APU, the analysis evaluated whether changes in water quality resulting from the proposed increase in discharge (0.35 MGD to 0.875 MGD) (1) are consistent with the maximum benefit to the people of the state, (2) will not unreasonably affect beneficial uses, (3) will not cause water quality to be less than water quality objectives, and (4) provide protection for existing in-stream uses and water quality necessary to protect those uses. Satisfaction of the antidegradation requirements is discussed in detail in the Fact Sheet or the proposed permit.

Mgmt. Review \_\_\_\_\_

Legal Review EGW \_\_\_\_\_

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