

Regional Water Quality Control Board
Central Valley Region Board Meeting
14/15 December 2023

Response to 2nd Set of Written
Comments for the Forward Landfill, Inc.

Tentative Waste Discharge Requirements

At a public hearing scheduled for 14/15 December 2023, the Regional Water Quality Control Board, Central Valley Region, (Central Valley Water Board) will consider adoption of revised Waste Discharge Requirements (WDRs) for Forward Landfill in San Joaquin County. This document contains responses to written comments received from interested persons regarding the Tentative WDRs Order No. R5-2023-XXXX circulated on 07 June 2023. Written comments were required by public notice to be received by the Central Valley Water Board by 07 July 2023 to receive full consideration. Public comments were received from Lynch Road Ranch, LLC and Forward Landfill, Inc. (Discharger) on 07 July 2023.

During the public comment period, Central Valley Water Board staff determined that the tentative WDRs should be delayed and therefore the updated WDRs must be re-noticed for an additional 30-day public comment period.

Written comments received on 07 July 2023 are summarized below, followed by responses from Central Valley Water Board staff.

LYNCH ROAD RANCH LLC COMMENTS

COMMENT NO. 1:

It is apparent that Forward Landfill continues to not take responsibility for maintaining, removing, and monitoring the toxic plume that is emanating from their site. I understand this all began before a lot of regulations were put into place, but that does not absolve them of responsibility for doing their best to clean this serious problem up. The allowance for them to increase their capacity, while they have shown disregard for the increasing size of the plume with little or at the very least inadequate amount of new extraction wells and monitoring is beyond criminal. They have been seriously delinquent in complying with the Cleanup and Abatement Order requirements, (see Attached) and the contaminated plume continues to expand. Greater enforcement actions should be implemented, rather than allowing them to increase capacity. This is a recipe for disaster.

I have reviewed the responses to the comments of the RTC. I have several concerns and comments.

1.) The Regional Water Quality Control Board Response to 1st set of written comments for the Forward Landfill dated 10/11 August 2023 "Response To Questions" (to be shortened to RTC from here forward). The RTC I received and the RTC that is posted to your website are different, why is that? The one I received had 41 comments, the one on your website now has 52. Why did you not update me with the 2nd version? This makes me think you have something to hide.

RESPONSE:

A pdf version of the Response to 1st Set of Written Comments for the then circulated Tentative Waste Discharge Requirements Order No. R5-2021-XXXX were emailed to interested parties. Due to web content accessibility guidelines, the document format was changed and updated to be posted on the website. This in turn fixed issues with numbering and references that were seen in the pdf version. Both documents have the same responses and total number of response to comments.

COMMENT NO. 2:

2.) From the 2nd paragraph of the RTC, I would like to know how the recent high rainfall and high meltwater flows have impacted the facility with regards to surface impoundment and potential release, as these responses were prior to the high rainfall and high runoff event of this season? Secondly, how has this impacted the plume and are any mitigation efforts being proposed, as these high rainfall events are probably more likely than not.

RESPONSE:

The average rainfall depth that was seen in the area during the November 2022 to April 2023 (wet season) was 3.8 inches, with the highest precipitation depth at 8.5 inches for December 2022 (Station ID SOC, www.ncei.noaa.gov). Compared to the average of the highest 5 years precipitation data from 1919 to 2020 (data from PRISM Climate Group, Oregon State University, <https://prism.oregonstate.edu>), there was an increase in the amount of rainfall depth that was received in December 2022 and March 2023. December 2022 received 8.5 inches compared to an average of 2.45 inches and March 2023 saw 5.23 inches compared to an average of 4.42 inches.

Forward Inc. brought in ten temporary liquid storage tanks to supplement the leachate storage capacity of the surface impoundments during the 2022-2023 winter season.

An analysis was conducted to assess the effects of recent rainfall activity and how groundwater elevations changed from the Fourth Quarter 2022 Water Quality Monitoring Report (WQMR) to the First Quarter 2023 WQMR. Groundwater elevations were sampled between 10/28/2022 to 11/9/2022 and 1/24/2023 to 2/10/2023 in the Fourth Quarter 2022 WQMR and First Quarter 2023 WQMR, respectively. All the groundwater wells with sufficient comparable data (4 out of 87 wells did not have elevations for Fourth Quarter 2022) saw an increase in water levels from one reporting season to the next and ranged from 0.75 feet to 45.4 feet. Out of 87 groundwater wells

that were analyzed, 42 wells saw water elevation increase by 20 to 45.4 feet.

The increase in precipitation does not appear, however, to cause major changes to the plume dynamics.

COMMENT NO. 3:

3.) From the 3rd paragraph of the RTC, changes have been made for cannery waste? Please describe these alterations and what type of cannery wastes are you talking about? My understanding is Class 2 waste sites are classified as "solid, non-hazardous" and Class 3 is "solid, inert". Are you describing adding biological waste to this site or surrounding area?

RESPONSE:

In regard to changes made for the cannery waste section of the WDR, a more robust analysis was conducted for the current cannery waste land application operation. The Discharger is allowed to land apply cannery waste on 75 acres of land to the north of the landfill footprint and within property boundary. The waste is comprised of two materials: cannery residual material and cannery rinsate. Cannery waste is a nonhazardous decomposable waste. No additional waste is being discussed. The WDRs also note that the Discharger will need to enroll into the Salt and Nitrate Control Program for further regulation and ensure that cannery waste will not degrade groundwater in regard to salinity and nitrate.

COMMENT NO. 4:

4.) Comment #1 (RTC); the response simply states the Corrective Action Program, but you can see from the reports that none of these seem to be taken seriously and have failed continually and are not implemented and very little, if any mitigation is being applied, in fact at least 5 wells were removed over the new prison area, how is this acceptable?

RESPONSE:

The CVRWQCB Compliance and Enforcement unit are actively working with the Discharger to get the site back into compliance.

COMMENT NO. 5:

5.) Comment #6 (RTC), several property water wells have needed to be shut down due to contamination and the California Regional Water Control Board cleanup and abatement order #R5-2017-0703 seems to contradict this response in several significant ways.

RESPONSE:

A Domestic Well Sampling Plan was required under Cleanup and Abatement Order R5-

2017-0703 (CAO) under Condition 1b. The purpose of the sampling program was to identify off-site wells that may have been impacted by volatile organic compounds (VOCs) associated with plume migration from the Forward Landfill. There are 14 active residential groundwater treatment systems in place at the following residential locations:

1. 7210 Austin Road
2. 7898 Austin Road
3. 7898 Austin Road South
4. 8106 Austin Road
5. 7175 Newcastle Road
6. 7443 Newcastle Road
7. 7557 Newcastle Road
8. 7601 Newcastle Road
9. 7667 Newcastle Road
10. 7777 Newcastle Road North
11. 7777 Newcastle Road South
12. 7833 Newcastle Road
13. 7983 Newcastle Road
14. 7995 Newcastle Road

Two residences on 7317 Newcastle Road and 7485 Newcastle Road decided to move forward with the option to connect to the city water line. There is no known documentation that the domestic water wells at these residential locations are in use.

COMMENT NO. 6:

6.) Comment #7 (RTC), it is Summer 2023, have all of these been implemented? it is severely lacking the proper scope, but it is a start. Hopefully, this is just a start, because the report mentioned in #5 indicated that the plume has expanded past the boundaries and the recent wet winter will have exacerbated that.

RESPONSE:

Implementation of the offsite Interim Remedial Action Plan began in August 2023.

COMMENT NO. 7:

7.) Comment #9 (RTC), are they paying these civil liability fines per day? They are certainly not in compliance as per your reporting. If not, severe fines should be levied to the maximum extent allowable.

RESPONSE:

Civil liability fines have not been issued as of late. The current CAO acts as a formal step towards establishing financial responsibility.

COMMENT NO. 8:

8.) Comments #10-13 (TRC), did not adequately answer these questions, just passing the buck.

RESPONSE:

A Corrective Action Program and CAO R5-2017-0703 is the Central Valley Water Board's response to the address the Discharger's land disposal operation and management. The Water Board and the Discharger are working to continue cleanup in the surrounding area.

COMMENT NO. 9:

9.) Comment #24. States that a residence was demolished. There are many other impacted residences, not specified but impacted, including all the homes on Austin Rd. north to Arch Rd. and all the residences on Newcastle headed north to Arch Rd.?

RESPONSE:

This comment is referring to Finding 36 in the Tentative WDRs. It is standard practice to list the residences that live within the 1/2 mile radius of the facility boundary. There are currently six residences that live within the 1/2 mile radius of the facility boundary. These include residences that live on Newcastle Road and Austin Road.

COMMENT NO. 10:

10.) Comment #30. Why would the tentative WDRs not increase the frequency of reporting and sampling methods? This is a huge issue, and you should require more sampling and reporting, not less, regardless of the area being sampled. You are risking the lives of people here.

RESPONSE:

The reporting and sampling frequency has been established in the CAO R5-2017-0703. The CAO Condition 1b states that the wells listed in the Domestic Well Sampling Plan shall be sampled and reported on a semi-annual basis. There are wells that are sampled more frequently. Eleven residential domestic wells are sampled quarterly and one is sampled monthly. The requirements in the CAO are reflected in the Tentative WDR and MRP.

COMMENT NO. 11:

11.) Comment #40 is ACW >1% truly considered inert and nonhazardous and you are now going to allow that in the Class 3 landfill. This can't be true.

RESPONSE:

Solid Waste Facility Permit 39-AA-0015 allows the acceptance of asbestos as long as it is more than 1 percent friable. Asbestos Containing Materials (ACM) is monitored under

a load-checking program which is comprised of: waste characterization and certification forms, load inspections, training of on-site personnel, and signage. Asbestos disposal manifests and operating records are maintained by Forward Landfill. The records include quantity and date of each individual shipment of ACM, disposal location at the landfill, a summary of incidents that required an established contingency plan to be used, inspection results and training records.

COMMENT NO. 12:

12.) Comment #41. TWW is going to be allowed into the Class 3 landfill? TWW is certainly toxic. TWW has been treated with potentially arsenic, chromium, copper, pentachlorophenol, and creosote. These are all highly toxic and you want to allow these into the class 3 landfill. Holy cow, have you no regard for human health at all.

RESPONSE:

Forward landfill has been authorized to accept treated wood waste (TWW) under Assembly Bill 332 (AB332) as set forth in Article 11.2 Section 25230 of the Health and Safety Code. Treated wood waste can only be disposed in composite-lined waste management units.

COMMENT NO. 13:

13.) Comment #50. How did the water bearing zones change or how were they impacted by the recent high rain and flooding events?

RESPONSE:

The comment is in regard to updates made to the water bearing zones of groundwater monitoring wells in Table 3. The table had misidentified several wells to be “deep” that were in fact “shallow” or “intermediate.” These wells have been corrected in the WDRs.

An analysis was conducted to assess the effects of recent rainfall activity and how groundwater elevations changed from the Fourth Quarter 2022 Water Quality Monitoring Report (WQMR) to the First Quarter 2023 WQMR. Groundwater elevations were sampled between 10/28/2022 to 11/9/2022 and 1/24/2023 to 2/10/2023 in the Fourth Quarter 2022 WQMR and First Quarter 2023 WQMR, respectively. All the groundwater wells with sufficient comparable data (4 out of 87 wells did not have elevations for Fourth Quarter 2022) saw an increase in water levels from one reporting season to the next and ranged from 0.75 feet to 45.4 feet. Out of 87 groundwater wells that were analyzed, 42 wells saw water elevation increase by 20 to 45.4 feet.

COMMENT NO. 14:

In conclusion, Forward has been delinquent in complying with cleanup orders and when they do implement some efforts, they are way too little and way too late. The contaminated plume continues to grow rather than shrink, or even maintain its historical boundaries and I am certain that the recent water volume has increased the plume even

further. The enforcement mechanisms of the RWQWB as well as the State EPA should take a much more proactive approach to force Forward to take meaningful actions and get them back on schedule for cleanup and remediation of the plume. They should not be allowed to increase production on a site that they have already proven they cannot adequately maintain. I observed over the Memorial day weekend that Forward left garbage uncovered over the extended weekend, additionally, wind swept garbage continues to blow onto neighboring agricultural fields threatening the produce and the egress roads from the dump continue to soil Austin Rd. to the point the lines are not visible. Don't put the lives and health of those, in which you are entrusted to protect, in harm's way any longer.

Thank you for your time and consideration.

RESPONSE:

The Central Valley Regional Water Control Board will investigate these claims and continue our efforts to regulate and monitor this facility.

FORWARD LANDFILL, INC. COMMENTS

COMMENT NO. 15:

(WDR Glossary, Pg vii). LFG refers to landfill gas condensate but this acronym typically refers to landfill gas.

RESPONSE:

The glossary term has been updated to reflect landfill gas instead of landfill gas condensate.

COMMENT NO. 16:

(WDR Finding 34, Pg13). Allow excess cannery rinse water to be discharged to future surface impoundments.

RESPONSE:

The finding regarding excess cannery rinsate has been updated from Finding 34 to Finding 87. Finding 87 has been rewritten to include future surface impoundment for cannery rinse water discharge.

COMMENT NO. 17:

(WDR Finding 37, Pg 14). An updated figure was prepared that shows half-mile radius, see Figure 1. Also, it appears there is 1 residence on Austin Rd and 3 residences on

Newcastle Rd withing 1/2 mile of the facility boundary rather than the 2 residences on Austin and 5 residences on Newcastle noted in the Finding. Please note that the former residences at 9690 Austin Rd was demolished several years ago.

RESPONSE:

Based on discussions with the Discharger, six residences are located within the half-mile radius of the facility boundary. Finding 36 (previously Finding 37) has been updated to reflect this change.

COMMENT NO. 18:

(WDR Finding 48, Pg 16). See updated Figure 2 for Attachment D.

RESPONSE:

The updated monitoring point map provided shall be used as Attachment D.

COMMENT NO. 19:

(WDR Finding 51, Pg 17). Suction cup lysimeters were also used under pan lysimeters since 2001 but discontinued starting with WMU FU-19. The statement that the landfill units built above old Austin Road have a suction cup lysimeter in addition to pan lysimeter is incorrect. All of the leachate from the units above old Austin Road landfill drain to the Subtitle D cells located to the south of the old Austin landfill.

RESPONSE:

Finding 50 (previously Finding 51) has been reworded to specify which waste management units utilized the combination of suction cup lysimeters and pan lysimeters.

COMMENT NO. 20:

(WDR Table 3, Pg 17). Residential Domestic Wells listed under Correction Action Program in the Tentative WDR. These wells are currently sampled under directive in CAO and the data indicate that they have not been affected by a release from the landfill and should not be included in the more frequent and rigorous reporting program proposed in the Tentative WDR.

RESPONSE:

The Residential Domestic Wells listed in Table 3 and Attachment H are directly from the CAO and can only be removed once the CAO is rescinded. A note will be added to Table 3 to highlight this point. The addition of these wells in the Tentative WDRs and MRP does not require an increase in the frequency of reporting or sampling method beyond what has been established by the conditions of the CAO.

COMMENT NO. 21:

(WDR Finding 83, Pg 24). Intermediate liners are also on WMUs FU-10, FU-13, and FU-17

RESPONSE:

Finding 81 (previously Finding 83) and Attachment E will be updated to include WMU FU-10, FU-13 and FU-17 as waste management units that utilize the intermediate liner design.

COMMENT NO. 22:

(WDR Finding 92, Pg 26-27). Please allow for 120 days following the issuance of the WDRs for opting into the SCP and NCPs.

RESPONSE:

Table 17 Item 9 will be updated to include a deadline change for Salinity Control and Nitrate Control Program enrollment.

COMMENT NO. 23:

(WDR Finding 93, Pg 26-27). Please allow for 120 days following the issuance of the WDRs for opting into the SCP and NCPs.

RESPONSE:

Table 17 Item 9 will be updated to include a deadline change for Salinity Control and Nitrate Control Program enrollment.

COMMENT NO. 24:

(WDR Finding 105, Pg 30). This finding has a Word document error that requires correction. In addition, this section of the Findings is referring to land application of cannery waste but the requirement is to keep waste in WMUs. The cannery waste land app area is not a WMU.

RESPONSE:

Correct, the cannery waste is not a WMU. This finding refers to the overall antidegradation policy. The finding will be updated to clear up any confusion and update the error message.

COMMENT NO. 25:

(WDR Finding 117, Pg 32). Financial assurances will be updated in accordance with the CalRecycle schedule.

RESPONSE:

In discussions with the Discharger, the table will be updated to follow the financial assurance schedule of CalRecycle.

COMMENT NO. 26:

(WDR Finding 123, Pg 34). Please allow for 120 days following the issuance of the WDRs for opting into the SCP and NCPs.

RESPONSE:

Table 17 Item 9 will be updated to include a deadline change for Salinity Control and Nitrate Control Program enrollment.

COMMENT NO. 27:

(WDR Table 11, Pg 48). Several deadlines are within the next 30-60 days and should be updated once the WDR is finalized.

RESPONSE:

As per discussions with the Discharger, the deadlines in Table 17 (previously Table 11) will be updated to reflect achievable dates.

COMMENT NO. 28:

(WDR Table 11 Item 8, Pg 49). The due date for the corrective action financial assurances August 1, 2023, which is before the Board Hearing date for WDRs approval. As this regulation is based on a CalRecycle requirement, Forward proposes to update the corrective action financial assurance on a schedule that is consistent with the CalRecycle requirements.

RESPONSE:

In discussions with the Discharger, the table will be updated to follow the financial assurance schedule of CalRecycle.

COMMENT NO. 29:

(WDR Table 11 Item 9, Pg 49). Enrollment date is July 30, 2023 which is before the Board Hearing date for WDRs approval. Please adjust this date to allow 120 days following the issuance of the WDRs for opting into the SCP and NCPs.

RESPONSE:

Table 17 Item 9 (previously Table 11) will be updated to include deadline change for Salinity Control and Nitrate Control Program enrollment.

COMMENT NO. 30:

(MRP Table 1, Pg 4). See comment under Item 6 above.

RESPONSE:

The Residential Domestic Wells shall follow the current reporting guidelines found in the Domestic Well Sampling and Analysis Plan (SAP) that was submitted on May 25, 2017. The SAP was submitted in accordance with Task 1.b of CAO R5-2017-0703. A note will be added to Table 3 to highlight that these wells are part of the CAO and may be updated when the CAO is rescinded. The addition of these wells in the Tentative WDRs and MRP does not require an increase in the frequency of reporting or sampling method beyond what has been established by the conditions of the CAO.

COMMENT NO. 31:

(MRP Table 28, Pg 32). Under dissolved inorganics, Semi-annual sampling & Quarterly reporting listed. Please clarify.

RESPONSE:

The sampling and reporting has been updated to be every 5 years.