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Comments— Tentative WDRs for Tasteful Properties, LLC; Tasteful Selections, LLC; and Way-Gin, LP | Tasteful Selections Arvin Facility, Kern County

This letter transmits my comments on the 16 September 2020 “TASTEFUL PROPERTIES, LLC; TASTEFUL SELECTIONS, LLC; AND WAY-GIN, LP | TASTEFUL SELECTIONS ARVIN FACILITY, KERN COUNTY” (tentative Order or tentative WDRs).

I am a resident of Fresno County and a California registered civil engineer with 12 years experience with the Central Valley Regional Water Quality Control Board (Regional Board). From February 1998 through December 2010, I worked in the Regional Board’s Fresno Office, primarily in the WDR regulatory program. As a result, I was fortunate to have gained expertise in evaluating the effects to soil and groundwater from discharges of food processing wastewater to land for treatment and disposal.

Wastewater Recycling and Discharge Quality

In June 2014, Tasteful Properties, LLC and Tasteful Selections, LLC (Discharger) submitted a Report of Waste Discharge (RWD) for a proposed discharge from a new potato processing facility (Facility) near Arvin and began operating the Facility four months later (Finding 1). Subsequent information submitted in 2014 estimated maximum wastewater discharge flows as 106,800 gallons per day and 26.9 million gallons per year from the year-round operation of two processing lines (Finding 8). In 2019 and 2020, additional submittals proposed recycling about 95% of the produced wastewater (Finding 2). The five percent of recycled wastewater wasted would be ultimately discharged to three nearby cropped Land Application Areas (LAAs) owned by Way-Gin, LP (Finding 3). The 2020 submittal described a doubling of processing capacity and concomitant doubling of total annual wastewater production (to 53.16 million gallons), of which, only five percent (2.66 million gallons) would be impounded in a lined storage pond then discharged to the LAAs (Finding 14).

Three waste streams comprise the Facility’s processing wastewater: potato processing/washing wastewater (74%), cooling tower blowdown water (19%), and cold storage condensate (7%) (Findings 9 and 15). Findings 12 and 13 characterize the Facility’s source water and wastewater, respectively. Facility source water contains nitrate and dibromochloropropane (DBCP) in concentrations that exceed drinking water maximum contaminant levels. Based on the limited data available for source water and pond effluent, it appears that source water salinity (as TDS) increases by about five percent per use.

Given the high percentage of recycling proposed, the repeated re-use of treated processing wastewater may incrementally increase its salinity to levels that compromise its suitability for crop irrigation. Additionally, the extensive recycling of Facility processing wastewater may significantly increase the concentrations of DBCP in the discharge to the LAAs. The tentative Order's Monitoring and Reporting Program (MRP) should include at least annual monitoring of DBCP in source water (SPL-001) and wastewater storage pond effluent (EFF-002).

Finding 46 estimates the discharge's loading of nitrogen and salinity to the LAAs. The loadings are based on an annual discharge of 2.66 million gallons of wastewater containing 10.1 mg/L total nitrogen and 510 mg/L fixed dissolved solids (FDS) and assume the discharge is applied uniformly to the LAAs. The estimated loadings are very low compared to most discharges of food processing wastewater. However, the assumed concentrations for total nitrogen and FDS reflect only single use of source water and not the 95% proposed recycling. Finding 46.a states, in part, that the "Discharger's consultant has stated that salinity concentrations will not increase with the addition of the recycling water treatment system." It is unclear whether the Discharger's consultant submitted data demonstrating this assertion, or merely offered it based on professional judgment. As stated previously, data provided elsewhere suggest that the salinity increases by about five percent per use. If this incremental increase holds for each use, then it is difficult to believe that the salinity of the five percent wasted on the LAAs would not be greater than that of single-use source water. The finding should be revised to include information (preferably data) that clearly supports the consultant's claim (i.e., trust, but verify).

Additionally, the nitrogen and salinity loadings assume that the total annual flow of 2.66 million gallons (8.16 acre-feet) is uniformly applied to the LAAs (either 419 acres of wheat or 160 acres of almonds). This reflects an annual hydraulic loading of only 0.2 inch to the wheat LAAs and 0.6 inch to the almond LAA. The tentative Order should explain how wastewater will be uniformly applied to the LAAs to achieve these extremely low hydraulic loadings (e.g., through metered blending with fresh irrigation water).

California Environmental Quality Act (CEQA)

Finding 1 clearly identifies the Discharger's Facility as "a new potato processing facility." Yet, Finding 51 declares it is an existing facility and, as such, the Regional Board's adoption of the tentative Order is exempt from the provisions of CEQA in accordance with California Code of Regulations, title 14, section 15301 (14 CCR 15301). The tentative Order should disclose how the Discharger completed the portion of its Form 200 pertaining to CEQA compliance, both for the original Facility (two processing lines) and expanded Facility (four processing lines). It should also describe the result of staff's efforts to contact Kern County to determine how it authorized the construction and operation of the Facility, and its expansion, in accordance with CEQA requirements.

During my time with the Regional Board (1998-2010), I found that Kern County's compliance with CEQA was, frankly, less diligent than other counties in the Central Valley Region. Typically, Kern County does not undertake discretionary approvals under CEQA for the construction and

operation of food processing facilities provided that they are sited in areas zoned for such use. A case could be made that this approach sidesteps the letter and spirit of CEQA. Be that as it may, it is unreasonable for the Regional Board to assume lead agency status to undertake an environmental review of the entire Facility when it is only responsible for regulating its discharges of waste to land. The tentative Order should disclose this conundrum to support its citing of section 15301 as the basis for exempting it from CEQA. And, it should summarize the regulatory requirements imposed to ensure the discharge will not have any significant effects on the environment.¹

Additionally, the tentative Order's citing of 14 CCR 15308 to further support exempting it from CEQA is off the point. Section 15308 defines this exemption class as consisting of "minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes." With the possible exception of discharges to land of spoil from maintenance dredging operations, the examples provided in this section do not share any similarities whatsoever with the potential environmental impacts resulting from discharges to land of waste by industrial food processing facilities. In short, the inclusion of section 15308 to justify a CEQA exemption makes one think that the Regional Board's attorneys are overly cautious and wary of challenges to the tentative Order's sole reliance on the 'existing facility' exemption of section 15301.

Stormwater Basin

The Discharger's 2014 RWD describes the Facility's unlined stormwater basin design as including four 40-foot-deep gravel-filled dry wells (Finding 11). It is unclear as to whether these dry wells were actually constructed. Finding 11 should be revised to provide an as-built description of the stormwater basin which, judging from images available on Google Earth, encompasses about 1.3 acres. Based on a maximum capacity of 2.66 million gallons (Finding 11), the maximum water depth is about 6.3 feet (assuming the dry wells were not constructed).

Three images of the stormwater basin available from Google Earth (6/12/2017, 9/19/2017, and 8/30/2018) show impounded water in months with no or negligible rainfall. Finding 20 describes area soils as very deep and well drained. As such, it is reasonable to expect winter stormwater discharges to the basin would infiltrate by summer. The tentative Order should disclose the presence of impounded stormwater in summer months and, if possible, provide an explanation for this.

The tentative Order does not characterize the quality of impounded stormwater or prescribe monitoring requirements for the basin. The earliest image of the stormwater basin available on Google Earth (3/26/2015) shows impounded water as having a dark green appearance. Subsequent Google Earth images² always show impounded water as having a bright green color, likely due to surface algae blooms. The consistent, profuse presence of surface algae blooms in impounded stormwater suggests that water discharged to the unlined basin contains nitrogen in concentrations that may pose a threat to groundwater. Given the probable elevated

nutrient content of impounded stormwater, the tentative Order's MRP should prescribe requirements for stormwater basin monitoring for nitrogen forms, salinity (EC), freeboard, and presence of algae. The tentative Order should also include a reopener to impose discharge requirements for the stormwater basin discharge should monitoring data indicate it may threaten to violate groundwater limitations.

Minor Comments

Use of "Reportedly" in Findings

Domestic Wastewater Discharge. Finding 10 states, in part, that the Facility's domestic wastewater is "reportedly discharged to a septic system regulated by Kern County Environmental Health." Use of the word "reportedly" suggests there is no direct evidence that Kern County actually regulates this discharge. The Facility operates year round (Finding 7) and, as of June 2020, employs approximately 1,060 people (Finding 49). Assuming each employee generates, on average, 13 gallons of domestic wastewater per day³ yields a domestic wastewater discharge of approximately 13,800 gallons per day. This discharge may unreasonably degrade groundwater if it is not properly regulated. It behooves staff to confirm that the Kern County Department of Environmental Health regulates this discharge. If confirmed, Finding 10 should be revised to delete the word "reportedly." If not confirmed, staff should request the Discharger to submit a Notice of Intent for coverage under State Water Resources Control Board Order WQ 2014-0153-DWQ, General Waste Discharge Requirements for Small Domestic Wastewater Treatment Systems. Lastly, Attachment A – Site Map should be revised to depict the location of the Facility's septic tank(s) and leachfield(s).

Stormwater Basin Design Capacity. Finding 11 states, in part, that the Facility's "stormwater basin is reportedly designed to handle stormwater from the majority of the Facility for both a 100-year, 24-hour rainfall event and the 10-year, 5-day precipitation event." Again, use of the word "reportedly" suggests there is no direct evidence that the stormwater basin was actually designed to accommodate these projected stormwater flows. Typically, a registered professional determines the stormwater basin design capacity and documents the design assumptions and calculations in the discharger's RWD. If this is the case, then I recommend this finding be revised to refer to the specific RWD submittal(s) as the factual basis supporting this capacity determination.

The tentative Order references the surface impoundment used to collect and dispose of the Facility's stormwater as "stormwater basin," except in Attachment A – Site Map, where it identifies it as "Unlined Stormwater Collection Pond." Since the term, stormwater basin, is used throughout the tentative Order, I recommend Attachment A be revised for consistency.

Finding 18 states, in part, that the "LAA's crops and APNs are subject to change provided that the Discharger demonstrates the change is in compliance with all conditions and requirements specified in the WDRs." It is unclear what is meant by the APNs being "subject to change." Does it mean that the Discharger may dispose of the Facility's processing wastewater to different

parcels not identified in the tentative WDRs? If so, then the Discharger should submit a RWD identifying the new parcels at least 120 days prior to initiating discharge.

Lastly, the tentative Order does not, but should, include a finding classifying the discharge's complexity and threat to water quality for annual fee purposes (23 CCR 22000). Based on the information provided in the tentative Order, it is my professional judgment that the discharge should be classified as Category 3 threat to water quality and Category B complexity, since the Discharger employs physical and chemical treatment systems.

Thank you for the opportunity to submit these comments.



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¹ See CEQA language in Kern County WDR Order R5-2013-006 for Horizon Nut, LLC, Global Ag Properties USA, LLC, Lost Hills Pistachio Processing Plant and WDR Order R5-2014-0082 for Bidart Bros., Bakersfield Potato Shed.

² Google Earth imagery dates 10/20/2016, 6/12/2017, 9/19/2017, 2/9/2018, 2/23/2018, 4/26/2018, and 8/30/2018.

³ Typical Wastewater Flow Rates from Commercial Sources, Industrial Building (Sanitary Waste Only) in

https://www.pollutioncontrolsystem.com/Uploads/images/Pages/SEWAGE%20FLOW%20RATE%20ESTIMATING%20GUIDE%20Nov%202014_20170105.pdf