

Response to Written Comments for the  
R&G Schatz Farms, Inc.  
Peltier Winery  
Tentative Waste Discharge Requirements

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At a public hearing scheduled for 22/23 April 2021, the Regional Water Quality Control Board, Central Valley Region, (Central Valley Water Board) will consider adoption of revised Waste Discharge Requirements (WDRs) for R&G Schatz Farms, Inc. for Peltier Winery in San Joaquin County. This document contains responses to written comments received from interested persons regarding the tentative WDRs circulated on 3 August 2020. Written comments were required by public notice to be received by the Central Valley Water Board by 4 September 2020 to receive full consideration. Comments were received from Ms. JoAnne Kipps on 4 September 2020.

Written comments are summarized below, followed by responses from Central Valley Water Board staff. In addition, staff has made a few minor changes to the tentative WDRs to improve clarity and fix typographical errors.

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**MS. JO ANNE KIPPS COMMENTS**

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**MS. KIPPS COMMENT NO. 1:** The cover letter accompanying the tentative Order incorrectly identifies the Discharger and Facility as “Barrel Ten Quarter Circle, Escalon Cellars” (at least the county, San Joaquin, was correct). The headers for the tentative Monitoring and Reporting Program (MRP) incorrectly identify it as the tentative WDRs. The tentative Order’s Information Sheet is similarly misidentified.

**RESPONSE:** These errors have been corrected and incorporated.

**MS. KIPPS COMMENT NO. 2:** The tentative Order’s Finding 3 identifies the Facility as consisting of the winery, wastewater treatment system and Land Application Areas (LAAs) that occupies Assessor’s Parcel Number (APN) 017-150-002. Finding 4 indicates that WDRs Order R5-2004-0035 currently regulates the Facility’s discharge. This order is issued to Rodney and Gayla Schatz, Mokelumne Rim Vineyards, and cites the APN of the Discharger’s “winery and tasting facility” as 058-020-05.

**RESPONSE:** According to the 2019 RWD provided by the Discharger, which included the Form 200, the facility name has been changed from Mokelumne Rim to Peltier Winery, and the address and APN number were revised. The Discharger did not provide any information on why the APN was changed but based on San Joaquin County’s Assessor’s Office webpage, the APN and address included in Finding 3 are correct. A statement was added to Finding 1 stating that this facility was formerly Mokelumne Rim Vineyards.

**MS. KIPPS COMMENTS NO. 3:** Finding 12 indicates that the BIDA® treatment system began operation in January 2018 yet Finding 10 indicates the system was installed in December 2018.

**RESPONSE:** The installation date was corrected to December 2017.

**MS. KIPPS COMMENT NO. 4:** The tentative Order characterizes the quality of influent (to the wastewater treatment system) and effluent (from the pond) in Findings 9 and 11, respectively. Values provided for influent and effluent fixed dissolved solids (FDS) from 2015 to 2019 are identical, as are the 2019 values for influent and effluent biochemical oxygen demand (BOD) (both 148 mg/L), total dissolved solids (TDS) (both 547 mg/L), FDS (both 273 mg/L), Nitrate and N (both 0.2 mg/L), and sulfate (3.6 and 3.57 mg/L). The tentative Order should be revised to correct these values or explain why they are identical.

**RESPONSE:** After further review, it was determined that the influent table was incorrect. Data presenting the pre-treatment data and post-treatment results for the BIDA® system are present on (newly numbered) Table 3.

**MS. KIPPS COMMENT NO. 5:** The comment states, in part, that the tentative Order “sets an irrigation cycle average BOD loading rate for the new LAA of 150 lb/acre/day for flood irrigated areas” (emphasis added). The tentative Order does not identify a new LAA.

**RESPONSE:** Because there are no new LAAs, the word **new** has been deleted.

**MS. KIPPS COMMENT NO. 6:** Lastly, the tentative Order’s Provision I.3 is typically applicable to municipal wastewater treatment facilities, not industrial discharges. Provision I.11 (which refers to Standard Provisions) is sufficient to address changes in discharge flow.

**RESPONSE:** Provision I.3 was deleted from the WDRs.

**MS. KIPPS COMMENT NO. 7:** WDRs Order R5-2004-0035, Discharge Specification B.1, establishes limits for monthly average wastewater discharge flows (5,000 gpd crush, 2,000 gpd non-crush) and total annual discharge volume (1,650,000 gallons). Finding 12 of the tentative Order cites the design influent flow rate of the BIDA® treatment system as 10,000 gpd. Finding 11 states, in part, “Average monthly influent flow rates to the BIDA® treatment system are approximately 10,000 gpd, with an annual average of 1.9 million gallons (MG).”

It appears that Finding 11 incorrectly cites the wastewater treatment system’s design flow capacity (10,000 gpd) as reflecting actual current monthly average discharge flow. This finding’s Table 3 presents monthly and annual influent flow rates (in MG) from 2015 through 2019. Total annual influent flows during this period range from 1.736 to 1.987 MG, in violation of 1,650,000-gallon limit set by WDRs Order R5-2004-0035,

Discharge Specification B.1. Table 3 should also identify the actual current monthly average discharge flow (in gpd) in order to evaluate the Discharger's compliance with Discharge Specification B.1. Nevertheless, assuming the Facility discharges 7 days/week, the monthly average flow was about 5,500 gpd in 2019 and, in 2018, the wastewater treatment system's design flow capacity was exceeded in September (10,333 gpd) and October (10,323 gpd).

**RESPONSE:** There was an error in the flow limit in the tentative WDRs. The proposed flow limit is 40,000 gpd, which is based on the Discharger's water balance and operational needs. The proposed flow limit of 40,000 gpd is inclusive of 10,000 gpd from the BIDA® pre-treatment (or filtration) process. The following clarification was added as a finding:

During periods of high rainfall or high wastewater flows, effluent flows in excess of the BIDA® treatment system capacity of approximately 10,000 gallons are directed around the BIDA® system and discharged directly to the wastewater pond for treatment. If the quality of wastewater in the pond exceeds discharge requirements, wastewater in the pond can be sent back through the BIDA® system for additional treatment until effluent limits are achieved.

In addition, Attachment C was updated to show the partial diversion of wastewater flows through the BIDA® system and flow directly to the treatment pond.

**MS. KIPPS COMMENT NO. 8:** The tentative Order's Finding 5 states, in part, that the "Facility has been in operation since 2002 and processes between 4,000 and 5,000 tons of grapes per season with peaks up to 6,000 tons." Finding 4 states that the Discharger has "made changes to the wastewater treatment system" that warrant revision and replacement of WDRs Order R5-2004-0035. Finding 22 (prefaced by header, "Facility Changes") states:

The Discharger may expand the Facility from an annual crush capacity of approximately 5,000 tons of grapes to 10,000 tons with[in] the next 10 years, depending on market conditions. The Discharger will expand the BIDA® treatment system to treat increases in daily influent flows.

The tentative Order authorizes increases in discharge flow to 10,000 gpd (monthly average daily flow) and 6 MG (total annual flow). The current annual discharge flow is about 2 MG. The tentative Order doesn't, but should, explain why a doubling of crush capacity should result in a tripling of annual discharge flow.

**RESPONSE:** The WDRs have been updated because the Discharger has made changes to the wastewater treatment system and requested a flow increase to meet operational needs. In addition, these WDRs are now over fifteen years old and are due for revision due to changes in facility operations and revised requirements, including the revised Basin Plan (Fifth Edition, rev. May 2018) and the CV-SALTS program. After evaluating the current treatment system performance and resulting

effluent and groundwater monitoring data, the water balance, and conducting a site visit, it was determined that changes in the limitations are appropriate and will provide continued protection of groundwater. The Discharger's water balance showed that the existing wastewater treatment system and LAAs could accommodate the proposed the flow limit to meet the Discharger's current and future operational needs while still protecting groundwater. The water balance also concluded that theoretically, the pond could be emptied any month of the year due to both irrigation demands and deep percolation through the site's permeable soils. The increased flow will also allow the Discharger to use less supplemental irrigation water as the water balance showed insufficient wastewater flow volumes to meet crop demands.

While the "Facility Changes" section allows the Discharger to expand the BIDA® system, this expansion would only allow an increase in the influent flow volume to the BIDA®; not a net flow increase in discharge to the land application areas. Increased flow through the BIDA® system would allow for increased pre-treatment to reduce BOD, resulting in improved wastewater quality. A sentence was added to Finding 25 (previously Finding 22) that states:

Expansion of the BIDA® system will only provide filtration for a greater percentage of wastewater flow and will not result in an increase of wastewater flows to the LAAs.

**MS. KIPPS COMMENT NO. 9:** Regarding compliance with the California Environmental Quality Act (CEQA), Finding 37 of WDRs Order R5-2004-0035 states:

On 12 July 2000, in accordance with the California Environmental Quality Act (Title 14, CCR, section 15261 et seq.), the San Joaquin County Planning Commission approved a Negative Declaration for the R&G Schatz Farm winery. No mitigation measures related to water quality were included in the approval of the Negative Declaration. However, the Prohibitions, **Effluent Limitations, and Groundwater Limitations** of this Order should mitigate the discharge and protect water quality (emphasis added).

**RESPONSE:** Proposed revisions of the WDRs do not increase the acreage of land application and do not represent a significant change in land use. Through a combination of improved wastewater treatment and based on a review of wastewater system performance along with effluent and groundwater monitoring data provided by the Discharger, the proposed Prohibitions, Effluent Limitations, and Groundwater Limitations of this Order are expected to mitigate the discharge and protect water quality.

When comparing the existing WDRs to revisions made in the tentative WDRs, the following limits have been updated to align with current standards and facility operational needs, while still being protective of groundwater:

- BOD and nitrogen in wastewater used for irrigation are now required to meet a loading limit to the land application areas, whereas previously the discharge had effluent concentration limits. The BOD loading limit in the tentative WDRs is 150 lbs/ac/day/irrigation cycle. The proposed BOD loading limit is more restrictive than the existing limit of 400 mg/L, resulting in the continued protection of groundwater. The proposed loading limit of 150 lb/ac/day for a cycle average is consistent with the *Manual of Good Practice for Land Application of Food Processing/Rinse Water*, dated (14 March 2007). Additional supporting evidence has been added to the WDRs to support this determination.
- As discussed in the Antidegradation section of the revised tentative WDRs, *“For the purposes of evaluation, TDS is representative of overall salinity. The best measure for total salinity in groundwater samples is TDS. FDS is the inorganic fraction of TDS that has the potential to percolate or leach into shallow groundwater. Therefore, the best measure for total salinity in the process waste an FDS effluent limit for the wastewater and a TDS limit for groundwater.* Because there currently are no water quality objectives established for FDS, this Order sets an effluent limit for FDS and requires continued groundwater monitoring for TDS with respect to the water quality objective of 1,000 mg/L.

**MS. KIPPS COMMENT NO. 10:** WDRs Order R5-2004-0035 Effluent Limitation C.2, states:

Wastewater discharged to the land application area shall not have a pH of less than 6.5 or greater than 8.4.

**RESPONSE:** The tentative Order includes dissolved oxygen monitoring and prescribes BOD mass loading limits, which provide reliable controls to preclude the generation of nuisance conditions. pH levels are invariably influenced by outside factors (i.e. sunlight and pond temperatures). Additionally, the Basin Plan does not contain Water Quality Objectives for pH for wastewater, only for groundwater. Additional treatment of the wastewater is expected to occur in the vadose zone prior to reaching the water table. However, pH monitoring has been added to the MRP for the wastewater pond.

**MS. KIPPS COMMENT NO. 11:** Finding 69 in the tentative Order declares:

The action to adopt waste discharge requirements for this existing Facility is exempt from the provisions of the California Environmental Quality (CEQA), in accordance with the California Code of Regulations, title 14, section 15301.

In order to find the tentative Order exempt from CEQA, the changes in the discharge should reflect “negligible or no expansion of use beyond that existing at the time of the lead agency’s determination” (14 CCR 15301). The tentative Order **doubles** the

monthly average discharge flow limit to 10,000 gpd (regardless of time of year) and **triples** the annual discharge volume (to 6 MG). And, it **eliminates** the existing WDRs Order's effluent limitations for pH and for BOD, TDS, and Total Nitrogen (which were all justified as "necessary to ensure compliance with the Groundwater Limitations"). Further, its Groundwater Limitations, among other things, **authorize** the discharge to degrade groundwater to concentrations that are "Protective of Beneficial Use," which are not even quantified, making compliance determination and enforcement essentially impossible given current staff resources. Numerical limitations for some groundwater constituents (TDS, Nitrate as Nitrogen, and Sodium) are inexplicitly cited in the tentative Order's MRP, but not in its Groundwater Limitations.

**RESPONSE:** Changes made in effluent and groundwater limitations between the revised tentative WDRs and the existing WDRs are made based on current and recent monitoring data, existing treatment processes, current water balances, and other site-specific conditions, including the depth to groundwater (approximately 100 feet below ground surface) and no recent odor complaints or other compliance issues. The BOD and nitrogen effluent concentration limits have been replaced with loading limitations that are considered to be protective of groundwater and to be more consistent between wineries in the area. TDS is no longer considered the best representation of salinity in wastewater; therefore, FDS is monitored and regulated in the wastewater and TDS is monitored and regulated in the groundwater. Concentration limitations for FDS in effluent and TDS in groundwater are proposed at concentrations considered protective of groundwater quality.

An increase in the flow volume was considered appropriate based on the water balance and existing site conditions, such as wastewater volumes were insufficient to meet crop demands. Higher wastewater flows allow the Discharger to use less supplemental irrigation water. Requirements included in the Discharge Specifications and Land Application Area Specifications of the tentative WDRs prevent the discharge from causing nuisance conditions, ponding, over saturation, and uneven distribution of wastewater, which all in turn, provide additional protection of groundwater.

The numerical limits for groundwater have been added to the WDRs.

Development of site-specific antidegradation factors in the conditions of the discharge include wastewater quality, effluent flow and limits, land application, the applicability of agronomic uptake, and depth to groundwater. The Groundwater Limitations defined in the WDRs consider these factors with respect to the ability of the discharge meeting Basin Plan Water Quality Objectives, whether promulgated Maximum Contaminant Levels or other standards established to protect water quality. The term Concentration Protective of Beneficial Use has been replaced with Water Quality Objectives.

**MS. KIPPS COMMENT NO. 12:** The Regional Board should not exempt the tentative Order from CEQA without appropriate justification. To ensure the Regional Board

upholds its duty as a responsible agency under CEQA, a new CEQA evaluation of these changes in the discharge is necessary. Only until this CEQA evaluation is performed and approved (probably by the Regional Board as lead agency), can the Regional Board proceed to adopt the tentative Order as currently proposed.

**RESPONSE:** The Central Valley Water Board's adoption of revised WDRs is appropriately exempt from CEQA, as the revised WDRs do not reflect a substantial departure from the existing WDRs, and the subject facility has not expanded its operations or footprint in any material way. Further, the available information indicates that the revised WDRs will not result in a significant impact on the environment.

**MS. KIPPS COMMENT NO. 13:** The tentative Order prescribes only one effluent limitation: an annual average FDS concentration of 900 mg/L determined as a flow-weighted average based on the total flow. The Antidegradation Summary presented in Finding 58 characterizes effluent FDS as about 1,100 mg/L and 500 mg/L before and after the wastewater treatment system began operating, respectively. Given that effluent FDS reflects the effluent's inorganic salt content, it is puzzling how the wastewater treatment system—a biological process that employs earthworms—is capable of such FDS removal (unless perhaps the earthworms ingest dissolved salts and extrude them in their casings). The tentative Order should attempt to explain this degree of FDS removal by the wastewater treatment system. And, it should include a finding that characterizes worm casings for FDS and other constituents relevant to its discharge to land as a soil amendment. Further, as it appears that effluent FDS is considerably lower than the effluent FDS limitation of 900 mg/L, the tentative Order should justify why the effluent FDS limitation is almost double that of actual effluent FDS.

**RESPONSE:** The reader is encouraged to review Finding 13 and information from the manufacturer (BioFiltro) concerning the application of verminology to reduce wastewater organic constituents. In evaluating an effluent limitation, several factors are taken into consideration, including current wastewater and groundwater conditions, recent notices of violations for effluent requirements, depth to groundwater, historic groundwater concentration trends, etc. While the actual FDS concentrations in the effluent are less than the proposed the limitation, it was determined that the proposed limit would still be protective of groundwater while giving the Discharger some flexibility in the quality of the wastewater in order to continue operating. In addition, the compliance point for the FDS is the effluent from the treatment pond prior to land application of the wastewater. WDRs do not regulate the method of compliance but does regulate the quality of wastewater that is land applied and sets groundwater limits for the protection of groundwater. It is up the Discharger to determine an appropriate treatment to meet these limits. Therefore, regulations on the BIDA® system are not required.

**MS. KIPPS COMMENT NO. 14:** In order to ensure the Discharger properly operates its wastewater treatment system, the tentative Order should also prescribe effluent limitations for BOD and for total suspended solids (TSS) that reflect the system's design

removal efficiencies. The wastewater treatment system provides an impressively high degree of BOD and TSS reduction. According to data provided in Table 4 cited in Finding 13, the proprietary BIDA® Treatment System achieves, on average, over 90 percent reduction of influent BOD and TSS; average BOD and TSS concentrations in system effluent are 170 mg/L and 126 mg/L, respectively.

**RESPONSE:** The proposed BOD limit, Land Application Area Specifications, and Discharge Prohibitions are sufficient to prevent excessive organic loading. Additional information supporting the 150 lb/ac/day/irrigation cycle limit has been added to the WDRs in Finding 61.

A TSS effluent limit is only required in the draft Winery General Order for subsurface disposal systems to prevent system plugging, which is not a concern for surface flood irrigation systems. Therefore, a TSS limitation was not included in the tentative WDRs. For the protection of groundwater from salts, the combination of an FDS effluent limit, BOD and nitrogen loading limits, TDS, sodium, chloride, and nitrogen as nitrate groundwater limits, the implementation of BPTCs, the Discharge Prohibitions, and Discharger and Land Application Area Specifications are considered sufficient for the protection of groundwater, provided the Discharger stays in compliance with the proposed WDRs once adopted. In addition, the WDRs do not regulate the method of compliance to meet effluent limits. The compliance point is set a location after treatment has occurred, prior to land application.

**MS. KIPPS COMMENT NO. 15:** Additional BOD removal occurs in the aerated pond. According to Table 5 in Finding 15, the average BOD of pond effluent in 2019 was 148 mg/L. Even if the Regional Board does not prescribe effluent limitations reflective of the wastewater treatment system's design removal capacities for BOD and TSS, it should at least carry over the effluent limitations for BOD, TDS, and Total Nitrogen currently prescribed in WDRs Order R5-2004-0035. Alternatively, the tentative Order must explain why it does not carry over the existing effluent limits, and justify why this backsliding is appropriate and reflective of best practicable treatment or control, and ensures the discharge will comply with groundwater limitations (the ultimate measure of a successfully-managed discharge).

**RESPONSE:** The proposed effluent limitations are reflective of the revised wastewater treatment process as the BIDA system was not in place when the existing WDRs were adopted. BOD and nitrogen will be regulated as loading limits instead of concentration limits, which is consistent with other recently board adopted WDRs, and are considered protective of groundwater. The Central Valley Water Board considers the proposed limits to be protective of water quality. In addition, changes in the wastewater treatment system include lining the wastewater pond, which reduces the infiltration and constituent loading rate from the pond to groundwater. The loading limitations are considered protective of groundwater quality for the land application areas while also preventing nuisance conditions.

**MS. KIPPS COMMENT NO. 16:** The tentative Order does not provide sufficient information to determine whether its proposed maximum cycle average BOD loading rate of 150 lb/acre/day reflects the actual loading from the current (and proposed) discharge. Pond effluent is discharged to the 28-acre LAA via flood irrigation to deep furrows. The tentative Order, either in findings or its Information Sheet, should describe how the discharge is conducted in sufficient detail to support the proposed maximum cycle average BOD loading of 150 lb/ac/day. This information should include, at a minimum, answers to the following questions:

- How much pond effluent is applied during each irrigation event?
- How much LAA acreage receives pond effluent during each irrigation event?
- How many days elapse before the same LAA acreage receives another application of pond effluent?

Given the relatively low BOD of pond effluent (about 150 mg/L in 2019), it would appear that the tentative Order's 150 lb/ac/day cycle average BOD loading limit exceeds actual BOD loadings. The prescribed BOD loading rate should reflect the actual expected BOD loading rate.

**RESPONSE:** It is incumbent on the Discharger to meet the effluent and loading limits of the WDRs to protect water quality. Application distribution rates and resting cycle information is required to be documented and reported under the Monitoring and Reporting Program. The BOD loading limits are determined based on site-specific conditions. The estimated loading rate as a cycle average is approximately 10 lbs/ac/day based on recent wastewater monitoring reports from 2018 and 2019. Using all available data, it appears the discharge will meet the loading limit requirement.

**MS. KIPPS COMMENT NO. 17:** Finding 54 indicates that the 150 lb/ac/day BOD loading rate is consistent with "Risk Category 3" in the *Manual of Good Practice for Land Application of Food Processing/Rinse Water* published by The California League of Food Processors (CLFP). Finding 52 defines Risk Category 3 discharges as having BOD loading rates greater than 100 lb/ac/day and as requiring "detailed planning and good operation with good distribution very important to prevent unreasonable degradation, as well as use of oxygen transfer design equations that consider site-specific application cycles and soil properties and special monitoring."

The Manual describes how to use the theoretical model to design a land application system, including its maximum BOD loading rates and minimum drying intervals.

I appreciate the tentative Order's inclusion of Finding 53:

Although it has not been subject to a scientific peer review process, the Manual of Good Practice provides science-based guidance for BOD loading rates that, if fully

implemented, are considered a best management practice to prevent groundwater degradation due to reduced metals.

If the Regional Board continues to rely on the untested theoretical oxygen transfer model cited in the Manual of Good Practice for justifying prescribed BOD loading rates, then it should require monitoring of groundwater for dissolved metals (iron, manganese, arsenic) along with hardness, alkalinity, and total organic carbon (in addition to the usual suite of monitored constituents—EC, TDS, FDS, nitrogen constituents, etc.).

**RESPONSE:** As stated in the MRP, groundwater samples are required to be analyzed for TDS, EC, and standard minerals, which include, at a minimum, dissolved iron, dissolved manganese, chloride, and sodium. Dissolved arsenic, hardness, TOC, and alkalinity analyses have been added to the MRP for groundwater samples. The discharge must also meet the FDS effluent limit.

**MS. KIPPS COMMENT NO. 18:** Finding 12 indicates that wastewater treatment system effluent discharges to “an aeration pond for polishing and storage.” Finding 14 states that the “pond is equipped with a high-density polyethylene (HDPE) liner and a sprinkler recirculation system” and has an operational storage volume of 0.72 MG. While the tentative Order’s Discharge Specification E.6 more or less carries over the current Order’s discharge specification regarding objectionable odors (Discharge Specification B.5), it does not carry over Discharge Specification B.6 (“As a means of discerning compliance with Discharge Specification No. 5, the dissolved oxygen content in the upper zone (one foot) of the wastewater storage pond shall not be less than 1.0 mg/L”). The tentative Order should justify why it eliminated the specification for minimum pond dissolved oxygen (DO) concentration.

**RESPONSE:** A Discharge Specification of >1.0 mg/L for DO has been added to the WDRs.

**MS. KIPPS COMMENT NO. 19:** The MRP for WDRs Order R5-2004-0035 appropriately includes a separate POND MONITORING section (for DO, freeboard, pH, and odors), which specifies where and when pond DO monitoring is to occur. The MRP in the tentative Order lumps pond DO monitoring in the section, “Wastewater Effluent Monitoring,” and does not specify when and where pond DO monitoring is to occur. And, it inexplicitly eliminates monitoring of pond freeboard all together. The tentative Order’s MRP should carry over the Pond Monitoring section of WDRs Order R5-2004-0035.

**RESPONSE:** A Pond Monitoring Section was added to the MRP and includes monitoring the pond for presence/absence of water, freeboard, odors, berm condition, and dissolved oxygen.

**MS. KIPPS COMMENT NO. 20:** The tentative Order is mute on the Discharger’s history of noncompliance with WDRs Order R5-2004-0035 (i.e., failure to comply with the MRP, inadequate pond dissolved oxygen and freeboard, and failure to install

groundwater monitoring wells). On 1 November 2005, the Regional Board adopted Administrative Civil Liability (ACL) Complaint Order No. R5-2005- 0528 for the Discharger that assessed a liability in the amount of \$30,000. The tentative Order should include a finding that discloses the Discharger's history of noncompliance, cites the ACL Complaint Order, and states whether and when the Discharger paid the liability. [According to a CIWQS Detailed Administrative Civil Liability (ACL) Report for ACLs issued on 1 November 2005,<sup>1</sup> the Discharger apparently paid \$20,000 of the \$30,000 assessed liability.]

**RESPONSE:** A finding will be included summarizing the record of noncompliance with the existing WDRs and the corrective efforts taken. Consideration will be made that the non-compliant conditions and response actions taken were over 15 years ago and the Discharger has since improved their operations.

**MS. KIPPS COMMENT NO. 21:** Provision I.10 states, "The Discharger shall use the best practicable cost-effective control technique(s) including proper operation and maintenance, to comply with this Order." State Water Resources Control Board Resolution No. 68-16 (Antidegradation Policy) requires discharges of wastes to high quality waters to "meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained." Since when did the State Water Resources Control Board revise its Antidegradation Policy to include the qualifier, "cost effective," in its requirement for best practicable treatment or control?

**RESPONSE:** The term cost effective was deleted from the Order.

**MS. KIPPS COMMENT NO. 22:** I have noticed that recent land discharge WDRs have eliminated findings identifying the closest surface water that might receive waste constituents applied to the discharge area during catastrophic flood events, as well as the beneficial uses of the receiving surface water. Given the intensifying effects of global climate change with respect to the frequency and intensity of flood events in California, it is prudent for land discharge WDRs to identify what surface water(s) could receive waste constituents applied to the discharge area during catastrophic flood events (in this case, the Mokelumne River), as well as the surface water's beneficial uses. I recommend the tentative Order include Findings 27 and 28 from WDRs Order R5-2004-0035.

**RESPONSE:** Two findings were added that explain Mokelumne River is the closest surface water body and that identified the beneficial uses of underlying groundwater.

**MS. KIPPS COMMENT NO. 23:** Lastly, Finding 62 classifies the discharge's threat to water quality and complexity for annual fee purposes (23 CCR 22000). The finding classifies the discharge as being Category 3 threat to water quality and Category C complexity. Given that the discharger employs a biological treatment system, the discharge's complexity should be elevated to Category B ("Any discharger not included

in Category A that has physical, chemical, or **biological treatment systems** (except for septic systems with subsurface disposal)...” (emphasis added). Category “C” complexity is for dischargers “having no waste treatment systems or that must comply with best management practices, dischargers having passive treatment and disposal systems, or dischargers having waste storage systems with land disposal.” Unless additional justification is provided to classify the discharge’s complexity as “C” the discharge complexity should be classified as “B.”

**RESPONSE:** The BIDA® system is used as a supplemental filtration process prior to treatment in the lined wastewater pond. Aside from monitoring the flow volume through the BIDA® filter, there is no technology or chemical additives involved in maintaining the effectiveness of the filtration. Because this is a supplemental treatment in addition to a typical pond treatment system that does not generate other waste products requiring treatment, the complexity of the discharge will remain Category C.