



UNITED STATES MARINE CORPS

MARINE CORPS BASE
BOX 555010
CAMP PENDLETON, CALIFORNIA 92055-5010

Item No. 7
Supporting Document No. 6a

IN REPLY REFER TO:

5090.7C
ENVSEC/42
August 27, 2008

Mr. John Robertus
Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Dear Mr. Robertus:

SUBJECT: COMMENTS ON NPDES AND WDR PERMITS

Enclosed please find Camp Pendleton's comments on Tentative Order Nos. 2008-0096 (NPDES No. CA0109347) and R9-2008-0089 (Master Reclamation Permit); Southern Region Tertiary Treatment Plant (SRTTP), RWQCB reference number CRU:9 000001182:MVALD.

We appreciate the opportunity to comment on these draft orders. If we have any additional comments, we will submit them by the final deadline of 3 September 08.

The point of contact is myself at (760) 725-9753, or Mr. Luis Ledesma, the Wastewater Branch Head, at (760) 725-0141.

Sincerely,

A handwritten signature in black ink, appearing to read "Khaliq Khan".

KHALIQUE A. KHAN, Ph.D., P.E.
Head, Environmental Engineering Division
Assistant Chief of Staff
Environmental Security
By direction of the Commanding Officer

Enclosures: 1. Comments on NPDES No. CA0109347, Tentative Order No. R9-2008-0096
2. Comments on Master Reclamation Permit, Order No. R9-2008-0089

Enclosure I
Comments on
NPDES No. CA0109347
 Tentative Order No. R9-2008-0096
Marine Corps Base, Camp Pendleton
 27 August 2008

#	Page	Section/Line	Comment
1	4	Table 4	Facility Contact. Revise to read, "Wastewater Branch Head, Assistant Chief of Staff, Environmental Security, phone number to (760) 725-0141."
2	9	II.Q.	Provision II.Q indicates that the provisions/requirements of subsection VI.C are included to implement State law only, but the referenced subsection appears to involve the CWA. Is this citation correct?
3	23	VI.A.2.J	Delete reference to Clean Water Act Grant Program: the SRTTP is a Federally Owned Treatment Work (FOTW) and should have no bearing with the "Clean Water Grant Program."
4	26	V.C.5	Revise the POTW to FOTW.
5	28	V.C.5.b.v(b).	Request the RWQCB remove this section from the permit or clarify its legal authority to impose such a prescriptive operations and maintenance requirement. While we respect the RWQCB's efforts to protect water quality and do not consider the directive as creating an unreasonable workload, we would ask that the Board set effluent requirements in this permit and allow us to establish internal management practices to meet those requirements.
6	32	VII.H	Text refers to a monthly average percent removal but the formula is presented as a daily percent removal. Is the calculation and compliance determination based on the monthly average or a daily data calculation?
7	D-6	V.B.2. & V.B.3	The pervious NPDES permit only required that applications, reports, or information submitted to the Director be signed and certified. Is this provision intended to require higher level signature? If not, suggest the following edit to V.B.3: "All applications, reports, certificates, or other information, or other information requested by the Regional Water Board, State Water Board, or USEPA shall be signed by a person described in Standard Provisions – Reporting V.B.2 above, or by a duly authorized representative of that person."
8	D-9	VII	Revise the POTW to FOTW.
9	D-9	VI.A	Courts have strictly interpreted the Congressional waiver of sovereign immunity found in the CWA, 33 U.S.C. 1323. Some provisions of Water Code sections 13385, 13386, and 13387 don't apply to federal facilities, for example, Congress did not authorize personal liability for officers, agents, or employees of the United States any civil penalty arising from the performance of their official duties. Therefore, rather than saying the Regional Water Board is authorized to enforce provisions of the Water Code, it would be more accurate to use language similar to the last permit, Attachment No. 4 provision 9, which stated: "The Porter-Cologne Water Quality Control Act provides for civil and criminal penalties comparable to, and in some cases greater than, those provided for under the Clean Water Act. [CWC 13385, 13386, and 13387] Nothing in this Order shall be construed to protect the Discharger from its liabilities under federal, state, or local laws. Except as provided for in 40 CFR 122.41(m) and (n), nothing in this Order shall be construed to relieve the Discharger from civil or criminal penalties for noncompliance. ..."
10	E-4	Table E-2	Previous NPDES permits defined daily as 5 days per week. Does the same apply to this permit? If so, please include in a footnote.

11	E-4	Table E-2	Influent Monitoring for oil and grease frequency is listed as a daily requirement. We feel that is excessive and unnecessary. Accordingly, we ask that the monitoring frequency be reduced to weekly.
12	E-4	Table E-3	BOD and TSS% removal calculation requirement is listed as daily. The text on page 32 refers to a monthly average percent removal. Is the calculation and compliance determination based on the monthly average or a daily data calculation?
13	E-8	V. Last paragraph	Please clarify the screening period requirements. Prior permits allowed the screening to cease after 1 month if the new screening demonstrated that the most sensitive species was that which was previously found to be the most sensitive.
14	E-14	IX.D.1- IX.D.6	Strike reference to the phrase "Online SSO Database" and revise section to direct submission of a monthly spill report to the RWQCB with a listing of the specific data reporting requirements. As a federal government agency, Camp Pendleton is unable to comply with Order 2006-0003 as it is currently written, and is in the process of submitting a notice of termination (NOT) to terminate enrollment with the order. MCB Camp Pendleton, like other federal military installations, cannot comply with Order 2006-2003 because it lacks Congressional authorization. In the CWA, 33 U.S.C. 1323, Congress only subjected federal entities to "State ... and local requirements ... respecting the control and abatement of water pollution in the same manner, and to the same extent as any nongovernmental entity". However, Order 2006-2003 explicitly excludes applicability to nongovernmental entities, and because it excludes nongovernmental entities it does not meet the criterion for a waiver of sovereign immunity. Although we acknowledge the positive impact that Order 2006-0003 may have on reducing collection system overflows and protecting water quality, and we are implementing many of the substantive requirements of Order 2006-0003 as a matter of comity, we believe we will be unable to report spills to the Online SSO Database once we have terminated enrollment in Order 2006-0003.
15	E-16	IX.D.6	Request the RWQCB insert minimum reporting information for "Private Lateral Spills" prior to the section "Category 1 SSOs". <i>Rational:</i> over the last couple of years, the management and maintenance of Camp Pendleton's family housing areas has transferred to private contractors under the Department of the Navy's Public Private Venture (PPV). Under this long-term (i.e., 50 year) contractual arrangement, the PPV partner owns the housing structures – to include the building laterals – and in effect has become a private property within the confines of Camp Pendleton. A similar arrangement applies to conveyance infrastructure owned and operated by CALTRANS (I-5 rest areas) and the North County Transit District (Coaster Maintenance Facility).
16	E-18	IX.F.1	The Department of the Navy reserves the right to evaluate and determine its ability to legally comply with requirements to report via the State Water Board's California Integrated Water Quality System (CIWQS) Program Web site when such requirements are promulgated by the State Water Board. If MCB Camp Pendleton is unable to comply it shall continue to submit hard copy SMRs until the conflict is resolved.
17	F-3	Table F-1	Facility Contact. Revise to read, "Wastewater Branch Head, Assistant Chief of Staff, Environmental Security, phone number to (760) 725-0141.
18	F-3	Table F-1	Authorized Person to sign--. Revise the phone number to, "(760) 725-9753"
19	F-3	I.A	Please insert the words "under contract" after operated (i.e., ...owned and operated, <i>under contract</i> , by the United States Marine Corps...)
20	F-5	II.A	First two paragraphs at the top of the page are incorrect: conversion of STPs 1, 2 & 3 into sewage lift stations has not yet occurred (as of 22 Aug 08) and may not be complete "prior to the adoption of this order". Recommend the following rewrite: "In the summer of 2008, wastewater conveyance pipelines to divert sewage from Treatment Plant Nos.1, 2, and 3 to the SRTTP were completed. Under this order, Treatment Plant Nos.1, 2, and 3 will no longer be used by the Discharger for sewage treatment, and all influent flow will be routed to the SRTTP."
21	F-6	Table F-2	Discharge to OOO. Under "Discharging Facility" revise it to read "SRTTP" vice "Plant Nos. 1, 2, 3 and 13 (Now includes SRTTP)".

22	F-10	II.D.	Is it customary to include a compliance summary of the most recent EPA inspection in the Fact Sheet? (An inspection summary memorializes compliance at a specific point in time and may not present an complete sense of an inspected activity's overall compliance posture.) If this section is mandatory, request the RWQCB include a footnote for D.1 on this page that contains the following: "The Discharger argues that the influent oil and grease limit of 25 mg/L cannot be reliably met in an influent stream receiving wastes from domestic (i.e., residential units) sources, and that oil and grease concentrations in untreated domestic wastewater typically range from 50 to 100 mg/L (Metcalf and Eddy, Wastewater Engineering, 3rd ed., New York; McGraw-Hill, Inc., 1991). The Regional Water Board Staff agrees that 25 mg/L is typically lower than what is commonly observed in domestic influent. Further, the Discharger's influent concentrations of oil and grease are typical of most domestic influent. In addition, this influent concentration of 25 mg/L is less than the weekly average effluent limitation for the final effluent (40 mg/L) and instantaneous maximum effluent limitation of 75 mg/L. Thus, this influent requirement is more stringent than the technology-based effluent limitations established by the Ocean Plan."
23	F-11	II.D.3	Please change sentence to read "The discharger is continuing to address deficiencies associated with the proper maintenance of oil/water separator log books." We prefer not to reference separate entities within Camp Pendleton but to reference Camp Pendleton as the responsible entity.
24	F-16	IV.B.2	Although we acknowledge that "The Regional Water Board reserves the right to reopen and revise this permit if increased oil and grease concentrations are correlated to adverse impacts to the operation and treatment ability of the SRTTP," we wish to advise the RWQCB that Camp Pendleton has not experienced compliance concerns with Oil and Grease in its aged secondary treatment facilities or with meeting its effluent limitations for Oil and Grease from these facilities.
25	F-23	Table F-10	Change <u>Lead</u> to Total Chlorine Residual
26	F-24	Table F-11	Daily max limit for chronic toxicity shows error
27	F-36	VI.A	The second paragraph states "Influent monitoring requirements have been carried over from the previous order." The oil and grease monitoring frequency was actually increased. However, Camp Pendleton requests the frequency be reduced to weekly.
28	F-36	VI.B	Request revision of the first and second sentence of the second paragraph to "Effluent monitoring requirements have been carried over from the previous Order with the notable exception of effluent monitoring for oil and grease, which has been increased from once a month to once a week." This revision is requested to strike reference to the unreasonable influent waste stream standard levied on Camp Pendleton by the San Diego RWQCB in the current NPDES permit. As discussed in correspondence submitted to the RWQCB on this subject, the referenced influent waste stream standard cannot be achieved in untreated waste from domestic sources (i.e., kitchen sinks). (The fact sheet admits this on page F-16.) Although influent waste stream monitoring demonstrates that Camp Pendleton seldom met this selective influent waste stream limit, the effluent from Camp Pendleton's three antiquated secondary treatment facilities and the SRTTP <u>never</u> exceeded the <i>effluent</i> waste stream <i>standard</i> of 25 mg/L, which is identical to the influent limit. The removal of this influent waste stream limit, which to the best of our knowledge has not been levied on any other discharger in the San Diego Region, will not have an adverse impact on effluent water quality and does not need to be referenced as the reason for increasing the effluent oil and grease compliance monitoring frequency.
29	F-37	VI.E.2	Please clarify the legal authority invoked by the RWQCB to compel a Federal activity to participate in regional monitoring activities coordinated by the Southern California Coastal Water Project (SCCWRP).
30	F-38	VI.E.4	Delete this paragraph; Camp Pendleton, as a Federal activity, is legally unable to comply with Order 2006-0003 as written. Specific reference to Order 2006-0003 makes compliance with this order problematic.
31	F-39	5	Revise the "POTW" to "FOTW"
32	F-39	VII.B.5.b	Please change "A source control program is required..." to "A source control program is necessary..."

33	F-40	VII.B.5.d	Delete the second paragraph. (Camp Pendleton, as a Federal activity, is legally unable to comply with Order 2006-0003 as written. Specific reference to Order 2006-0003 makes compliance with this order problematic.) The substantive requirements of the referenced order are contained in Attachment H.
34	F-41	VIII.C	Please correct location of public hearing
35	G-1	II.D	Revise "State DHS" to "California Department of Public Health (CDPH)".
36	H-6	B.7	Delete reference to "by establishing a proper rate structure,"; the directive is not relevant to a Federally funded activity.
37	H-6	B.9	Delete the last sentence of this paragraph; the directive is not relevant to a Federally funded and managed activity. Additionally, Camp Pendleton will make only those elements of the SSMP that do not compromise security concerns publicly available.

Enclosure 2
Comments on
Master Reclamation Permit
Order No. R9-2008-0089
Marine Corps Base, Camp Pendleton
27 August 2008

#	Page	Section/Line	Comment
1.	2	5	Request the RWQCB confirm the need to include this paragraph in the WDR. The WDR allows for the use of reclaimed water for spray irrigation. The application of reclaimed water for spray irrigation will provide sufficient moisture to irrigate the root zone but not enough water recharge waters of the state. Because the discharge will not impact groundwater, the dialogue contained in this paragraph unnecessary. If, however, the RWQCB is compelled to include the information contained in this paragraph, the portion of the paragraph addressing Camp Pendleton's intent to implement a project to reduce TDS requires revision; the current wording is pre-decisional of NEPA, and the following revision is proposed: "Ground-water supply wells for the Base are located in the Las Pulgas and Santa Margarita River Basins. With the exception of San Mateo Point housing, the USMC provides all drinking water from underground aquifers or basins. The USMC monitors for background levels of regulated and unregulated contaminants in drinking water pursuant to California Department of Public Health requirements CCR Title 22, Division 4, Chapter 15, section 64416. The total dissolved solids (TDS) concentration in ground-water supply wells is approximately 755 milligrams per liter (mg/L), which is greater than the water quality objective (see Finding 12). The USMC has authorized funding for a military construction project that will reduce TDS from the drinking water supply. The USMC expects a correlated TDS reduction in the SRTTP effluent. The project could occur as early as fiscal year 2009 (beginning October 1, 2008). With this project, the discharge of recycled water with TDS concentrations above Basin Plan objectives will be temporary and localized."
2.	3	9	Delete the last sentence. As discussed in correspondence submitted to the RWQCB on this subject, the referenced influent waste stream standard cannot be achieved in untreated waste from domestic sources. Effluent monitoring data for Camp Pendleton's wastewater plants demonstrates that oil and grease does not interfere with treatment plant processes or cause the treated wastewater effluent to exceed discharge standards. The removal of the influent oil and grease limit, which to the best of our knowledge has not been levied on any other discharger in the San Diego Region, will not have an adverse impact on effluent water quality and compliance.
3.	4	Table 3	Constituents – Should chlorine be chloride, or is chlorine referring to residual chlorine?
4.	4	Table 3	Is there an inconsistency between the Mission HSA (903.11) basin plan TDS requirement (not exceed 1500 ppm 10% of time) and the Discharge Specs, Table 4, TDS daily max of 1100 ppm?
5.	5	"It is Hereby Ordered that": last sentence	Change Finding 5 to Finding 6.
6.	7	1.b	Replace "DPH" by "California Department of Public Health (CDPH)"
7.	7	C.1.c	Revise C.2.b to C.1.b?

8.	8	D.2.d	Replace "DHS" by CDPH"
9.	10	E.3, 3 rd line	Replace "Director" by "Department"
10.	11	E.4, 1 st line	Replace "RWCWRF" by "SRTTP"
11.	11	E.4	Delete reference to Order 2006-0003 and R9-2007-0005. As a Federal activity, Camp Pendleton is legally unable to comply with these orders as written. A broad requirement to report in-plant spills is sufficient to compel reporting.
12.	14	E.17.	Subsections a. and b. are confusing. Additionally, persons possessing "by Direction" authority for such matters are authorized to sign on behalf of the Commanding Officer. Please reword these sections to indicate this.
13.	15	F.4. & 5	Please cite the specific authority for these remedies. Courts have strictly interpreted the Congressional waiver of sovereign immunity found in the CWA, 33 U.S.C. 1323. Some provisions of the Water Code don't apply to federal facilities or federal personnel, for example, Congress did not authorize personal liability for officers, agents, or employees of the United States any civil penalty arising from the performance of their official duties. Therefore, while the Water Code may provide for such civil monetary remedies, they may not apply to the system at MCB Camp Pendleton or our personnel.
14.	MRP-1	A.4.	Replace "California Department of Health Services" by "California Department of Public Health"
15.	MRP-2	A.12.	Cited provision (E.5.) does not specify information necessary to report.
16.	MRP-2	A.13.	Is cited provision (F.8.) correct?
17.	MRP-3	16	Delete the second "shall"
18.	MRP-3	B	Request revision to the following: "The discharger shall monitor the flow rate of raw wastewater influent at a location upstream of return plant streams where a representative sample of the influent can be obtained." This would make this requirement consistent with that contained in the draft NPDES permit.
19.	MRP-3	Table 1	Cyanide monitoring is listed as a composite sample; should this, rather, be a grab sample?