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Before The Environmental Appeals Board
United States Environmental Protection Agency
Washington, D.C.

17 JAN -4 AM 9:47
ENVIR. APPEALS BOARD

In Regards to: The Chukchansi Gold Resort and Casino
Waste Water Treatment Plant
711 Lucky Lane
Coarsegold, California 93614

Permit No. CA 0004009

From: Alan E. Rodely (Downstreamers)
45323 Park Sierra Drive #412
Coarsegold, California 93614

PETITION FOR REVIEW

INTRODUCTION

Pursuant to 40 C.F.R. & 124.19(a) Alan E. Rodely, et al, (Downstreamers) ("Petitioner"), petitions for review of the conditions of NPDES Permit No. CA0004009, ("the Permit"), which is due to be issued to the Chukchansi Gold Resort and Casino ("Permittee") on January 5, by The United States Environmental Protection Agency ("Permitter". The Permit would authorize the Permittee to discharge treated waste water effluent into an unnamed ditch leading into Coarsegold Creek. The creek runs half a mile through the middle of the property where the people, (Downstreamers)who are making this appeal (Exhibit A), have their homes.

The Petitioner contends:

1. It is a fact that mechanical and electrical devices can malfunction. It follows that a waste water treatment plant can fail and discharge polluted water.
2. It is a fact that, at present, nothing flows down the bed of Coarsegold Creek for three to six months every year.

In addition to these facts which are the basis of the Petitioner's request for review by the Board, the Petitioner contends that the Permitter has failed to observe the requirements of Title 40, Section 124. There it is stated that "all comment shall be considered in making the final decision and shall be answered as provided in Section 124.17". This section (Exhibit B)clearly states the response to the comments shall "specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reason for the change." To the extent this instruction was followed at all, it was not done in a way that allowed changes and reasons to be readily linked and judged. The Petitioner submits this is grounds for a review of the Permit.

FACTUAL AND STATUTORY BACKGROUND

The Permitter proposes to use Coarsegold Creek as the receiving water for the Chukchansi Gold Casino waste water treatment plant (WWTP). That means the treated water not needed for watering the landscaping and flushing the toilets will be discharged into the creek at a rate as high as 200,000 gallons a day. The flow rate is roughly equivalent to two full bath tubs every minute.

The Permitter published the first draft (date 12/15/ 2006) of a permit to allow the casino WWTP to discharge into Coarsegold Creek in December, 2006. The petitioners and others in Madera County did not hear of the permit until after its 30 day comment period had ended. After receiving many complaints and requests from interested parties the Permitter extended the comment period to May 8, 2007 and set up a hearing in Coarsegold in April. At the same time it issued a second draft (dated 3/20/2007) incorporating some of the changes suggested by the comments received to that time. This petition refers to the final version (dated 12/4/2007).

THRESHOLD PROCEDURAL REQUIREMENTS

Petitioner has standing to petition for review of the permit decision because it participated in the public comment period on the permit. [40 C.F.R. & 124.19 (a).]

Copies of the written comments made by Petitioner are in Exhibit C.

ARGUMENT

Condition 1.

The petitioner knows of no argument that can be made to challenge the facts referred to. The writers of the permit, by referring to “upsets” and “exceedances”, acknowledge that processes and people can malfunction. The requirement that the testing called for in the permit should be monitored is a similar recognition. Examples of the consequences of plant or people failure are documented in Exhibit D. At the Thunder Valley Casino in Lincoln, California there were “145 serious violations over a period of 18 months”. The violations started the first week the plant went into operation. The fines levied, in this case, amounted to \$435,000. The amount of pollution put into the environment is not known.

Condition 2.

The treatment process and the monitoring to be carried out are specified in the pages of a “Fact Sheet” and the “Authorization to Discharge” which makes up the Permit. Neither document provides much information about the creek other than its name. Missing is a description of the way the creek changes from a raging torrent in the winter to a series of unconnected pools left behind after spring rains in May or June. The deeper (around 5 ft) of these pools may not dry out until the end of July. From then until the rain starts again in September or October, there is not a drop of water to be seen flowing in Coarsegold Creek until it reaches Black Hawk Lake, about eight miles south of the proposed effluent entry point.

With a more or less continuous flow from the Casino the pools will be kept full through the summer months. That has to be a significant change from the natural state of the creek with unknown consequences for the flora and fauna as well as the local community. There is a danger, even when the discharge into the creek is said to be "clean".

Condition 1 plus 2.

If the two conditions were to occur at the same time, there would be no dilution of the discharge. All the water seen flowing down Coarsegold Creek would be polluted to some degree, for some unknown length of time – a change in the environment.

CONCLUSION

Since the expansion of the Casino appears to be well on the way to completion, the Petitioner is not optimistic that the discharge can be stopped completely but there should be some "consideration" given to imposing a "dry season" ban on discharging into the creek. This would follow the precedent of Dry Creek Casino, Permit No. CA 0005241 (Exhibit E)

EXHIBITS

Exhibit A: The Petitioners

Exhibit B: Requirements of Title 40 Section 124.17

Exhibit C: Letters written to Permitter by Petitioner

Exhibit D: Treatment Plant Malfunctions

Exhibit E. Title 40 part 124 Section 124.17



Alan E. Rodely (Downstreamers)
45323 Park Sierra Drive # 412
Coarsegold, California 93614

Telephone 559-658-8696 ext: 412

Date: December 29, 2007

Downstreamers - Permit # CA 0004009

EXHIBIT A

THE PETITIONERS

Downstreamers –Permit # CA 0004009

45323 Park Sierra Drive #412
Coarsegold, CA 93614

US Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board (MC 1103B)
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460-00012

IN SUPPORT OF THE DOWNSTREAMERS' PETITION TO REVIEW

NPDES PERMIT No. CA0004009

We, the undersigned, known for the purpose of this petition as the "Downstreamers", confirm that we each wrote at least one comment on a draft of the permit. This was acknowledged by the EPA in its "Response to Comments Document". We are therefore eligible to participate in this petition as explained in Federal Regulation Title 40, Chapter 1, Section 124.19, "Appeal of NPDES Permits".

We all live less than a mile from the Chukchansi Gold Casino in an RV park built on one side of a half-mile stretch of Coarsegold Creek. Access to the other, undeveloped side is across a spillway. In a typical year, from July to October, the spillway is dry. The chain of pools left behind dry up long before the next rain. This is a complex eco-system, beautiful and apparently in need of protection. The owners of the Chukchansi Casino are being given a permit to discharge up to 200,000 gallons a day (150 gallons per minute) of treated effluent from an expanded waste water treatment plant, into a ditch which flows into Coarsegold Creek, any day of the year. This will keep the pools topped up with close-to-stagnant water, all through the summer for an unknown distance downstream of the discharge point. The changes this could bring about are also unknown. The effects of a mishap in the treatment plant that would cause untreated effluent to flow through an otherwise dry creek are too painful to imagine.

NAME (PRINT)

SIGNATURE

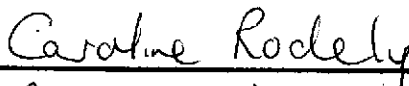
SITE #

1 ALAN E. RODELY



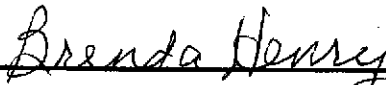
412

2 CAROLINE RODELY



412

3 BREWDA HENRY



435

4 BARBARA ELLIS



246

5 PHYLLIS JACKSON



304

6 DAVID ELLIS



246

7 JANE DONOHO



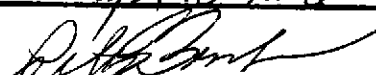
556

8 MARY L. BERNIKE



429

9 ~~WILL BENT~~



429

10 KENNETH KIMPTON



536

11 CAROLYN KIMPTON



536

45323 Park Sierra Drive #412
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<u>NAME (PRINT)</u>	<u>SIGNATURE</u>	<u>SITE #</u>
¹⁶ Todd Bowman	Todd Bowman	336
¹⁷ E. Jean Bowman	E. Jean Bowman	336
¹⁸ J.T. CHARK	J.T. Chark	#522
ED GEORGE	Ed George	#220
NANCY LINDGREN	Nancy Lindgren	211
Jim Adams	Jim Adams	344

EXHIBIT B

REQUIREMENTS OF TITLE 40

Downstreamers –Permit # CA 0004009

[Code of Federal Regulations]
[Title 40, Volume 19]
[Revised as of July 1, 2003]
From the U.S. Government Printing Office via GPO Access
[CITE: 40CFR124.17]

[Page 284-285]

TITLE 40--PROTECTION OF ENVIRONMENT

CHAPTER I--ENVIRONMENTAL PROTECTION AGENCY (CONTINUED)

PART 124--PROCEDURES FOR DECISIONMAKING--Table of Contents

Subpart A--General Program Requirements

Sec. 124.17 Response to comments.

(a) (Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) At the time that any final permit decision is issued under Sec. 124.15, the Director shall issue a response to comments. States are only required to issue a response to comments when a final permit is issued. This response shall:

(1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

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(2) Briefly describe and respond to all significant comments on the draft permit or the permit application (for section 404 permits only) raised during the public comment period, or during any hearing.

(b) For EPA-issued permits, any documents cited in the response to comments shall be included in the administrative record for the final permit decision as defined in Sec. 124.18. If new points are raised or new material supplied during the public comment period, EPA may document its response to those matters by adding new materials to the administrative record.

(c) (Applicable to State programs, see Secs. 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) The response to comments shall be available to the public.

schedule for the appeal and shall state that any interested person may file an amicus brief. Notice of denial of review shall be sent only to the person(s) requesting review.

(d) The Regional Administrator, at any time prior to the rendering of a decision under paragraph (c) of this section to grant or deny review of a permit decision, may, upon notification to the Board and any interested parties, withdraw the permit and prepare a new draft permit under Sec. 124.6 addressing the portions so withdrawn. The new draft permit shall proceed through the same process of public comment and opportunity for a public hearing as would apply to any other draft permit subject to this part. Any portions of the permit which are not withdrawn and which are not stayed under Sec. 124.16(a) continue to apply.

(e) A petition to the Environmental Appeals Board under paragraph (a) of this section is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final agency action.

(f)(1) For purposes of judicial review under the appropriate Act, final agency action occurs when a final RCRA, UIC, NPDES, or PSD permit decision is issued by EPA and agency review procedures under this section are exhausted. A final permit decision shall be issued by the Regional Administrator:

(i) When the Environmental Appeals Board issues notice to the parties that review has been denied;

(ii) When the Environmental Appeals Board issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings; or

(iii) Upon the completion of remand proceedings if the proceedings are remanded, unless the Environmental Appeals Board's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.

(2) Notice of any final agency action regarding a PSD permit shall promptly be published in the Federal Register.

(g) Motions to reconsider a final order shall be filed within ten (10) days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision shall be directed to, and decided by, the Environmental Appeals Board. Motions for reconsideration directed to the administrator, rather than to the Environmental Appeals Board, will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator pursuant to Sec. 124.2 and in which the Administrator has issued the final order. A motion for reconsideration shall not stay the effective date of the final order unless specifically so

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ordered by the Environmental Appeals Board.

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 9607, Mar. 7, 1989; 57 FR 5335, Feb. 13, 1992; 65 FR 30911, May 15, 2000]

45323 Park Sierra Drive, #
Coarsegold, CA 93614

(559) 658-8696 ext

February 6, 2007

CWA Standards & Permits Office
Water Division, WTR-5
USEPA Region 9
75 Hawthorne Street
San Francisco, CA 94105

Attention: Mr. Gary Sheth
Subject: Chukchansi PermitCA0004009

Dear Mr. Sheth:

Just today I heard that the people behind the Chukchansi Casino, where I have enjoyed spending a lot of time and money, want to put thousands and thousands gallons of treated waste from the expanded treatment plant, each day of the year, into a ditch that leads to the Coarsegold Creek!

They must be crazy ! Don't they know the creek runs completely dry for months and months in the summer? This waste may be treated to meet standards as it leaves the plant, but it is not going to meet those standards when it passes my home just downstream of the casino and it will be even more polluted when it first hits water and gets diluted at Black Hawk Lake.- that's after it has gone through Y L P. Do those people know about this project? You should have done a better job of informing the people directly affected, as the EPA is supposed to do.

There should be a hearing.

Alan Rodely
45323 Park Sierra Drive # 412
Coarsegold, CA 93614
(559) 658-8696 ext 412

May 9, 2007

EPA HEARING, ²⁶
Coarsegold, April 7, 2007
EPA NPDES No. CA0004009

COMMENT ON SUMMER BAN

Any Specifications written in response to an application for an EPA NPDES Permit for the Chukchansi WWTP should prohibit discharge of the treated water into the Coarsegold Creek in the summer. The summer needs to be defined. For example, the beginning of summer could be the time the Creek flow drops below a level 100 times the typical discharge from the WWTP. The end of summer could be at the same or a different flow rate. The flow rate in the creek could be measured easily enough because not much accuracy is required.

Thank you

Alan Rodely

Alan Rodely
45323 Park Sierra Drive # 412
Coarsegold, CA 93614
(559) 658-8696 ext 412

EPA HEARING,
Coarsegold, April 26, 2007
EPA NPDES No. CA0004009
Sheet of

DISCHARGE

The NPDES Fact Sheet for the Chukchansi WWTP says the treated water is discharged to an "un named creek on Tribal land which eventually flows into Coarsegold Creek, an eventual tributary to the Fresno River and San Joaquin River. which are considered to be Waters of the United States." The words describe the path the effluent takes when it leaves the Discharge Point as a simple discharge to creek to creek. If we have correctly identified the channel, the mile-long route only starts out on Tribal land. It next enters onto a length of private land, returns to Tribal land and to an area where a pond, roughly one acre in size, forms behind a dam. Then, after going over a spillway, the channel runs under Highway 41 on to another stretch of private land where it connects with Coarsegold Creek. This description leads to the following questions:

1. Is the channel correctly identified and described? If so
2. Where does the transition to "waters of the United States" occur?
3. Has it been determined these factors have no impact on the issuing of the permit?
4. Has any consideration been given to the design and maintenance of the dam?
5. Where does the water in the pond come from and isn't it the "Receiving Waters", not Coarsegold Creek?

Alan Rodely
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(559) 658-8696 ext 412

EPA HEARING,
Coarsegold, April 26, 2007
EPA NPDES No. CA0004009

BREAKDOWNS HAPPEN

What went wrong at the Thunder Valley Casino in Lincoln, (near Sacramento) in 2003? We understand there were 145 serious violations (stream polluting events) over a period of 18 months. The violations started the first week the plant was put into operation. The fines levied in this case amounted to \$435,000. Do you have any idea of the volume of pollutants discharged?

Other failures at waste water treatment plants are reported routinely and regularly in the Executive Officer's Report on Enforcement by the California Regional Water Quality Control Board, Central Valley Region,.

The people who write your Fact Sheets and Authorizations acknowledge the possibility of some part of a waste water treatment plant malfunctioning . They use words like "Upset", "Operational Error" and "Exceedance" on occasions when the fluid being discharged into the Coarsegold Creek is not as clean as it is supposed to be. The damage done to the Creek during one of these events could go unnoticed by the public. The fear that many of us share is that the damage will be very noticeable, extend for miles downstream and be very unpleasant. This scenario will be the source of a stigma attached to the town and the Casino

"Coarsegold ? Isn't that the place where they let the Casino dump sewage into their creek? "

No matter what is said or how much money is spent making the treatment plant the world's best, the stigma will stick. There is one sure way to prevent this The same way we avoid the many dangers described here this evening. The EPA has to prevent the discharge into Coarsegold Creek by prohibiting it at all times. Would you please delay issuing Permit CA0004009 while this prohibition is seriously considered and any possible alternatives investigated?

Thank you



Alan Rodely

Alan Rodely
45323 Park Sierra Drive # 412
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(559) 658-8696 ext 412

EPA HEARING,
Coarsegold, April 26, 2007
EPA NPDES No. CA0004009
Sheet of

NARRATIVE WATER QUALITY STANDARDS

I have read the NPDES Fact Sheets and the Authorizations for several Casino WWTPs and they all refer to "Narrative" water quality standards. These appear to be subjective standards or assessments made by an observer. Some of the simpler ones can be made by using the sense of smell, taste or sight. As an example there is Standard A4 in the Fact Sheet which says "Water shall not contain floating materials"

Why is no mention made of the action the observer, a Chukchansi mechanic, is to take when an out of spec situation is sensed?.. Presumably, he tells someone, but whom?

What if the observer was a member of the public? Could he sound an alarm that could lead, after verification, to a correction or even a shut down?

Could this be the basis of a way to give the public an element of participation in the protection of its environment?

Thank you



Alan Rodely

Alan Rodely
45323 Park Sierra Drive # 412
Coarsegold, CA 93614
(559) 658-8696 ext 412

EPA HEARING,
Coarsegold, April 26, 2007
EPA NPDES No. CA0004009

May 5, 2007

COMMENT ON RECEIVING WATERS

Any Specifications written in response to an application for an EPA NPDES Permit for the Chukchansi WWTP should have a paragraph describing clearly and completely how the treated water gets from the end of the WWTP pipeline to the point where the planned discharge into Coarsegold Creek is to be.

Thank you

Alan Rodely

EXHIBIT D

PLANT MALFUNCTIONS

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

24/25 APRIL 2003

ITEM: 3

SUBJECT: Executive Officer's Report

DISCUSSION:

WATERSHED ACTIVITIES

1. *Timber Harvest Activities Waiver For Non-Federal Lands*

During the January Meeting, the Board adopted a conditional waiver for timber harvest activities on Non-Federal lands. In coordination with staff from the Lahontan Regional Board and the California Department of Forestry and Fire Protection (CDF) we developed a certification form and instruction sheet for timber activities on non-federal lands. Several hundred letters were sent to timberland owners, licensed timber operators (LTOs) and registered professional foresters (RPFs) in the region informing them of the waiver and announcing the waiver certification enrollment form. Since the implementation of the waiver, staff has received queries from concerned landowners, LTOs and RPFs regarding the difficulty of determining which category their particular activity falls under. Staff is continuing to give presentations to various organizations representing RPFs and LTOs throughout the region to explain the waiver process. When the waiver policy comes before the Board for review in two years, some modifications may be suggested to assure that all types of timber harvest activities are covered.

The Board of Forestry (BOF) requested that management from the Central Valley and Lahontan RBs appear before the board to discuss the recently adopted waivers and to indicate any differences between the two. On 4 March, Jim Pedri, Harold Singer (Lahontan EO) and Tom Suk (Lahontan Timber Mgr.) presented a detailed overview of the timber waivers noting that there were very few differences between the two versions. The presentation was well received and the BOF appeared encouraged by statements from Regional Board representatives that the Regional Boards will continue coordination with the BOF and CDF to improve the Forest Practice Rules and that staff will continue to work closely with CDF field staff in implementing the current Rules and the waivers. (JLP)

2. *Timber Harvest Activities on U.S. Forest Service Lands – Conditional Waiver*

During the January Meeting, the Board adopted a conditional waiver of the requirement to file a report of waste discharge and obtain waste discharge requirements for timber harvest activities on U.S. Forest Service (USFS) lands. In coordination with staff from the Lahontan Regional Board and the USFS, we developed a certification form and instruction sheet for USFS timber activities and sent letters with the certification form to the central valley national forest supervisors and district rangers. We initiated contact with a few of the national forests and we are starting to coordinate on projects that might be covered under the conditional waiver. Staff is able to work on forest service projects this calendar year because of the recent infusion of forestry funds. There is now almost 1 PY dedicated to work on USFS timber activities for our three offices. In addition to implementing the waiver program, staff is also following the Sierra Nevada Forest Plan Amendment (Framework) process. A USFS Review Team has made and the Regional Forester has largely accepted recommendations on changes to the Framework involving increased logging/thinning versus prescribed burning for fire protection. In an interagency workshop held to discuss these recommendations, we expressed our concerns with the increased use of heavy equipment and the potential impacts to water quality associated with the increased logging. We will follow the process and plan to comment on the environmental document. (SYM)

3. *New Site Operator Selected For Iron Mountain Mine, Shasta County*

The site operator for Iron Mountain Mine, the IT Group and IT-Iron Mountain Operations, LLC notified all parties that it would be unable to perform further work after 15 March 2002 and filed for bankruptcy. This left the site without an operator, including operation of the lime neutralization plant for treatment of acid mine drainage. AIG, the site insurance carrier, stepped in and operated the mine treatment facilities, at least until a new contractor/operator could be secured. AIG has been operating the treatment facilities successfully and recently indicated they would assume the role as permanent site operator and general contractor of the Iron Mountain Operations and Maintenance contract. The various agencies overseeing the site have approved AIG as the new site operator. (PVW)

11. *Leprino Foods Starts New Plant in Lemoore, Kings County*

Leprino Foods' initiated cheese production at its recently constructed Lemoore West Plant and now discharges to its new industrial wastewater treatment facilities. It is the world's largest mozzarella manufacturing plant. At full capacity, this Kings County plant will process more than six million pounds of milk per day. These wastewater treatment facilities consist of four equalization tanks and two moving bed biofilm reactors at the Lemoore West Plant and a two sequencing batch reactors and two lined facultative lagoons at the City of Lemoore's wastewater treatment facility. Leprino has stopped discharging to the City's municipal wastewater treatment plant and it is no longer overloaded. A site inspection by Board staff in January confirmed this. Wastewater from both the City and Leprino are discharged to the West Lake Canal though an outfall pipeline owned by the City.

The City violated fecal and total coliform effluent limits during February. These violations coincided with the initiation of discharge from Leprino Food's new facilities to the City's outfall line, which combines with the City's disinfected municipal effluent and discharges to the West Lake Canal. Hydraulic interference between the City and Leprino appears to be the cause. An NOV directs that the City submit a technical report with an engineering analysis as to the cause of the violations as well as measures necessary to ensure consistent compliance with effluent and receiving water coliform limitations. (SJK)

LAND DISPOSAL**12. *An Update on Indian Gaming Facilities***

The Central Valley Region contains numerous Indian reservations and rancherias, many of which have signed compacts with the State of California to operate up to two gaming facilities on Indian lands under the Indian Gaming Regulatory Act. The Governor is reopening negotiations over the compacts with the many tribes over environmental and revenue sharing issues. On 20 March, staff provided comments to State Board to forward to the Governor's office recommending that negotiations address the need to improve the way casinos are developed, operated, and maintained, to ensure off-reservation water quality impacts are consistent with state law and regulations and Regional Board plans and policies.

With increasing frequency, rancherias are requesting the federal government to transfer real property into trust. This discretionary action on the part of the federal government essentially eliminates the authority of the Regional Board to regulate discharges of wastewater to the transferred property. On 18 February, staff commented on a request by Big Sandy Rancheria in Fresno County to transfer into trust a 71-acre parcel on which the tribe plans to locate a wastewater treatment and disposal facility to serve the Rancheria's residents and existing gaming facility. Due to potential impacts to groundwater and public health risks from the proposed discharge and the removal of regulatory oversight authority of the Regional Board, staff recommended the federal government not accept the subject parcel into trust. Similarly, staff recommended against granting the request by Table Mountain Rancheria to transfer land containing the Rancheria's existing tertiary WWTF into trust, as the WWTF discharges to sprayfields and to a water of the U.S. The U.S. EPA currently regulates this discharge under NPDES Permit No. CA0084280. Fresno County has documented complaints of sewage spills from Table Mountain Rancheria's WWTF and has indicated concern over the discharge's potential to adversely impact the quality of groundwater extracted by a nearby municipal supply well.

Under construction in the foothills of eastern Madera County is what will become the county's largest private employer – the Picayune Rancheria's Chukchansi Gold Resort & Casino. The Casino features a 196,000 square-foot gaming area and a 200-room hotel. Wastewater will be treated to the Title 22 standard of disinfected tertiary recycled water and recycled as nonpotable supply for landscape irrigation, fire suppression, and toilet flushing. During the winter months, treated wastewater will be discharged to groundwater via a "drain field" – an extensive system of deep leaching trenches situated entirely on trust land. A portion of the landscaped area irrigated with recycled water is on non-trust land, which makes it subject to Regional Board regulation. By 7 March letter, staff informed the Tribe that its report of water recycling was incomplete and that the proposed discharge to the "drain field" may be subject to regulation by the U.S. EPA as a Class V injection well. Because the Casino is entirely on trust land, there will be no state regulatory oversight over the use of recycled water for toilet flushing. However, the Tribe will provide the Casino's specifications for the indoor use of recycled water to the Department of Health Services for review for consistency with Title 22 requirements. (JLK)

13. *E. & J. Gallo Winery Begins Groundwater Investigation, Fresno County*

On 10 March, work began on an investigation to delineate the extent of groundwater pollution for sulfate resulting from past long-term practice of discharging acidic ion exchange regenerate wastewater at E. & J. Gallo Winery's Fresno Winery. Impacted groundwater is characterized by concentrations of total dissolved solids ranging from 2,100 to 2,700 mg/L and sulfate ranging from 760 to 1,200 mg/L. The salt plume is immediately upgradient from municipal supply wells serving City of Fresno residents. The investigation will be conducted in two phases. Initially, soil borings will be drilled to determine stratigraphy, and groundwater samples will be collected using a Hydropunch®, and subsequently, four new monitoring wells

**California Regional Water Quality Control Board
Central Valley Region**

4/5 May 2006

ITEM: 3

SUBJECT: Executive Officer's Report

DISCUSSION:

ENFORCEMENT

1. ***Notice of Violation, Naumes, Inc., Yuba County***
On 22 March 2006, staff issued a Notice of Violation (NOV) to Naumes, Inc. for a 29 December 2005 overflow of treated wastewater from the Discharger's land application area to an adjacent property, due to heavy rains. Standing wastewater was removed from the adjacent property on 30 December 2005. To prevent future discharges, Naumes, Inc. proposed to install a containment berm along the low-lying portion of the property boundary. (BPK)
2. ***Notice of Violation, City of Marysville Wastewater Treatment Plant, Yuba County***
Staff issued a Notice of Violation (NOV) to the City of Marysville Wastewater Treatment and Reclamation Facility for a 31 December 2005 discharge of treated wastewater to the Feather River and the omission of sampling data from quarterly reports. The spill resulted from a high volume discharge from the Oroville Reservoir. Several of Marysville's sewer percolation ponds are on the river side of flood protection levees, and were inundated with river water on 31 December 2005 and 1 January 2006. At the time of inundation the ponds contained approximately 11 million gallons of treated wastewater. The Board is aware that the facility wastewater ponds are not adequately protected from the Yuba and Feather Rivers during major storm events, and has, through Cease and Desist Order (C&D) No. R5-2004-0072, directed the City to prepare a Feasibility Study and Master Plan that will address this problem. The Feasibility Study and Master Plan Results are due by 1 October 2006. (BPK)
3. ***Notice of Violation, City of Wheatland, Sutter County***
On 3 April 2006 staff issued a Notice of Violation (NOV) to the City of Wheatland for the 31 December 2005 discharge of approximately 72,000 gallons of treated wastewater to the Bear River. The discharge resulted from excessive rainfall in a short period of time and releases from upstream dams, which caused the Bear River to rise rapidly and spill over its banks. The City of Wheatland recently obtained \$60,000 to repair the levee damage. The NOV requires the City to submit a report detailing the levee repair and corrective actions completed to prevent future discharges. (BPK)
4. ***Notice of Violation, Bear Valley Water District, Alpine County***
On 3 April 2006 staff issued a Notice of Violation (NOV) to the Bear Valley Water District (Discharger) for the discharge of approximately 1.2 million gallons of sewage to Bloods Creek and the Stanislaus River between 31 December 2005 and 1 January 2006. The discharge was the result of heavy rains that saturated the snow pack causing floodwater to inundate the Discharger's main pump station. The NOV requires corrective actions be taken to prevent future discharges. Staff is evaluating further enforcement actions. (BPK)
5. ***Notice of Violation, Napa Berryessa Resort Improvement District, Napa County***
On 21 March 2006, Napa Berryessa Resort Improvement District was issued a Notice of Violation (NOV) following a site inspection. The NOV stated that the Discharger continues to be in violation of the Waste Discharge Requirements (WDRs) for stockpiling sludge within the sprayfield, for storing sludge in a non-permitted pond, and for not performing daily monitoring of the spray disposal field. Staff is in the process of reviewing all compliance issues at the facility and will be preparing an additional enforcement action. (GJC)
6. ***Notice of Violation, Sewage Spill, Clearlake Oaks County Water District, Lake County***
On 15 March 2006, Clear Lake Oaks County Water District was issued a Notice of Violation (NOV) for a sewage spill estimated at approximately 100 gallons that occurred on 31 December 2005. The spill occurred from an overflowing manhole located at the intersection of Keys Boulevard and Everglade in Clearlake Oaks, and entered a canal that eventually drains into Clear Lake. The spill was the result of an electrical power fluctuation during a



Thunder Valley Hit with Pollution Fine

Written for the web by Elizabeth Bishop, Senior Internet News Producer



Thunder Valley Casino in Lincoln has been fined \$435,000 for polluting streams with sewage. The fine is the minimum penalty under a new state law.

The casino was fined \$3,000 for each of 145 serious violations documented over a three-year period since June 2003, which is the week the casino opened.

The casino is accused of releasing wastewater that had not been adequately treated into area streams. Consultants for the casino said they have added workers to better monitor the sewage treatment plant.

E-mail Story



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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2005-0033

REQUIRING THE UNITED AUBURN INDIAN COMMUNITY
AUBURN RANCHERIA CASINO
WASTEWATER TREATMENT PLANT
TO CEASE AND DESIST

FROM DISCHARGING CONTRARY TO REQUIREMENTS

The California Regional Water Quality Control Board, Central Valley Region (hereafter referred to as Regional Board), finds:

1. On 17 March 2005, the Regional Board adopted Waste Discharge Requirements Order No. R5-2005-0032, for the United Auburn Indian Community's Auburn Rancheria Casino Wastewater Treatment Plant (hereafter Discharger). Waste Discharge Requirements Order No. R5-2005-0032 regulates the discharge of 0.35 million gallons per day (mgd) of treated domestic wastewater to an unnamed tributary to Orchard Creek, Orchard Creek, Auburn Ravine, the East Side Canal, the Cross Canal, and the Sacramento River.
2. Waste Discharge Requirements Order No. R5-2005-0032, includes Effluent Limitations for aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia as contained in Sections C.1, which read in part as follows:

"1. Effluent from the wastewater treatment plant shall not exceed the following limits:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Daily Average</u>
Persistent Chlorinated Hydrocarbon Pesticides	µg/l	---	ND	---
Aluminum	µg/l	71	---	143
	lbs/day ²	0.21	---	0.42
Atrazine	µg/l	1.0	---	---
	lbs/day ²	0.003	---	---
Boron	µg/l	700	---	---
	lbs/day ²	2.0	---	---

CEASE AND DESIST ORDER NO. R5-2005-0033
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<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Daily Average</u>	<u>One-hour Average</u>
Fluoride	µg/l	1,000	---	---	---
	lbs/day	2.9	---	---	---
Methylene Blue Active Substances (MBAS)	µg/l	500	---	---	---
	lbs/day	1.5	---	---	---
Nitrate (as N)	µg/l	10,000	---	---	---
	lbs/day	29	---	---	---
Sulfate	µg/l	250,000	---	---	---
	lbs/day	730	---	---	---
Arsenic	µg/l	10	---	---	---
	lbs/day	0.03	---	---	---
Total Trihalomethanes	µg/l	80	---	---	---
	lbs/day	0.23	---	---	---
Electrical Conductivity (EC)	µmhos/cm	700	---	---	---
Ammonia	mg/l	0.42	---	---	3.5
	lbs/day	1.2	---	---	10.2

3. Based on sampling submitted by the Discharger, the discharge currently cannot consistently comply with the Effluent Limitations for aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia contained in the Waste Discharge Requirements Order No. R5-2005-0032.

All maximum detected effluent sampling results for aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes/chloroform, and ammonia, calculated projected Maximum Effluent Concentrations (MEC), and controlling water quality criteria for the receiving water for are summarized in the table below:

Constituents	Maximum Detected Concentration (µg/l)	Controlling Water Quality Criteria (µg/l)	Projected MEC (µg/l)
Aluminum	32	Basin Plan narrative toxicity objective and U.S.EPA Ambient Water Quality Freshwater Aquatic Life Criteria	237
Atrazine	0.83	Basin Plan chemical constituent objective and Primary MCL	6.1
Boron	3,500	Agricultural Goal	25,900

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Constituents	Maximum Detected Concentration (µg/l)	Controlling Water Quality Criteria (µg/l)	Projected MEC (µg/l)
Fluoride	520	Agricultural Goal	3,848
MBAS	72	Basin Plan chemical constituent objective and Secondary MCL	533
Nitrate (as N)	16,000	Basin Plan narrative objective and Primary MCL	16,000
Sulfate	70,000	Basin Plan chemical constituent objective and Secondary MCL	518,000
Arsenic	3	Basin Plan chemical constituent objective and Primary MCL	22.2
Electrical Conductivity	6,900	Agricultural Goal	N/A
Chloroform	16	Basin Plan chemical constituent objective and Primary MCL	118
Ammonia	19,000	Basin Plan narrative toxicity objective and U.S.EPA Ambient Water Quality Freshwater Aquatic Life Criteria	N/A

4. Based on the above Findings, this discharge represents a threatened discharge of waste in violation of the Effluent Limitations for aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia included in Waste Discharge Requirements Order No. R5-2005-0032.
5. In accordance with California Water Code (CWC) Section 13385 (j)(3), the Regional Board finds that, based upon the current condition of the wastewater treatment plant, the Discharger is not able to consistently comply with aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia limitations. The aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), electrical conductivity, sulfate, arsenic, total trihalomethanes, and persistent chlorinated hydrocarbon pesticides Effluent Limitations are new requirements that become applicable to the permit after the effective date of adoption of the waste discharge requirements, and after 1 July 2000, for which new or modified control measures are necessary in order to comply with the limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

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Source control and treatment actions can be taken to correct the violations that would otherwise be subject to mandatory penalties under California Water Code section 13385(h) and (i), and the Discharger can take reasonable measures to achieve compliance within five (5) years from the date the waste discharge requirements were required to be reviewed pursuant to Section 13380.

California Water Code (CWC) Section 13385 (j)(3) requires the Discharger to prepare and implement a pollution prevention plan pursuant to Section 13263.3 of the California Water Code. A pollution prevention plan addresses only those constituents that can be effectively reduced by source control measures. Aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia can be reduced significantly through source control measures.

Compliance with this Order exempts the Discharger from mandatory minimum penalties for violations of nitrate and ammonia limitations from adoption to 16 March 2006 and aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), electrical conductivity, sulfate, arsenic, total trihalomethanes, and persistent chlorinated hydrocarbon pesticides limitations through 1 February 2008, in accordance with California Water Code (CWC) Section 13385 (j)(3).

6. On 17 March 2005, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Regional Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order to establish a time schedule to achieve compliance with waste discharge requirements.
7. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), in accordance with Section 15321 (a)(2), Title 14, California Code of Regulations.
8. Any person adversely affected by this action of the Regional Board may petition the State CA 95812-0100, within 30 days of the date in which the action was taken. Copies of the law and regulations applicable to filing petitions will be provided on request.

IT IS HEREBY ORDERED that:

1. The United Auburn Indian Community shall cease and desist from discharging, and threatening to discharge, contrary to Waste Discharge Requirements Order No. R5-2005-0032 Effluent Limitation No.1 for aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia.

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2. The United Auburn Indian Community shall comply with the following time schedule to assure compliance with aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia Effluent Limitations contained in Waste Discharge Requirements Order No. R5-2005-0032 as described in the above Findings:

<u>Task</u>	<u>Compliance Date</u>
Submit a Workplan to Achieve Compliance ¹	1 September 2005
Submit Progress Report ²	1 December, annually
Pollution Prevention Plan	1 February 2006
Achieve Full Compliance with Ammonia and Nitrate Effluent Limitations	16 March 2006
Achieve Full Compliance ³	11 March 2008

¹ The Workplan shall include the Implementation Schedule to achieve compliance with waste discharge requirements.

² The Progress Report shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including construction progress, evaluate the effectiveness of the implemented measures and assess whether additional measures are necessary to meet the time schedule.

³ The Discharger shall achieve full compliance with Effluent Limitations for aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), electrical conductivity, sulfate, arsenic, total trihalomethanes, and persistent chlorinated hydrocarbon pesticides by 11 March 2008.

3. If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 17 March 2005.

THOMAS R. PINKOS, Executive Officer

EXHIBIT E

DRY SEASON PROHIBITION

Downstreamers –Permit # CA 0004009


These search terms have been highlighted:

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Permit No CA 0005241

PROPOSED

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean  Act, as amended, 33 U.S.C. 1251 et seq.,
(the "Act"),

Dry Creek Rancheria
3250 Highway 128 East
Dry Creek Rancheria, CA 95441

is authorized to discharge  municipal wastewater from the Dry Creek Rancheria
Wastewater Treatment Plant located at 3250 Highway 128 East, Dry Creek Rancheria,
 to unnamed stream P1, tributary to the Russian River, and unnamed stream A1 as
described below:

Outfall Serial No. Description of discharge Latitude

Page 3



PROPOSED Permit No CA0005241

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Footnotes to Table 1:

(1)

Flow Restrictions for Discharges to Outfall 001:

The permittee shall minimize the discharge of advanced  wastewater effluent to
surface waters at all times by maximizing available irrigation, recycle, and re-use of
 wastewater.

There shall be no discharge of wastewater effluent to the Russian River or its tributaries
from May 15 through September 30 each year.

During the period of October 1 through May 14, discharges of wastewater shall not
exceed one percent of the flow of the Russian River. For purposes of this permit,
compliance with the discharge rate limitation is determined as follows: 1) the discharge
of advanced  wastewater shall be adjusted at least once daily to avoid exceeding, to
the extent practicable, one percent of the most recent daily flow measurement of the
Russian River as measured at the Cloverdale USGS Gaging Station # 11463000, and; 2)
in no case shall the total volume of advanced  wastewater discharged in a calendar
month exceed one percent of the total volume of the Russian River at the Cloverdale
USGS Gaging Station in the same calendar month. During periods of discharge, the
Cloverdale USGS Gaging Station shall be read at least once daily, and the effluent flow
shall be set for no greater than one percent of the flow of the River at the time of the daily
reading. At the beginning of the discharge season, the monthly flow volume comparisons