

Exhibit D

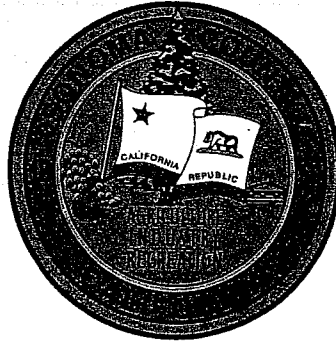
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March 21, 2006

Mr. John Tinger
EPA-Water Division
U. S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

**RE: COUNTY OF SONOMA COMMENTS ON DRY CREEK RANCHERIA
NPDES PERMIT APPLICATION**

Dear Mr. Tinger:

As Chairman of the Sonoma County Board of Supervisors, I want to express the County's deep concern regarding the pending NPDES Permit Application submitted by the Dry Creek Band of Pomo Indians. The County believes that the United States Environmental Protection Agency ("USEPA") should not take further action on the permit until updated data is made available and consultations take place on the issue between the Tribe, County, EPA and the Regional Water Quality Control Board. Such consultation with the County is arguably required by the Tribal-State Compact to which the Tribe is bound.

The County has previously provided to your office its comments on environmental studies prepared by the Tribe in connection with its casino construction activities. The prior comments raised concerns, which remain outstanding, about the inadequate and incorrect environmental analysis of water quality and wastewater issues. The validity of these prior criticisms is now apparent as a result of the Tribe's previously unanticipated need to now discharge wastewater into surface waters running off the Tribe's Rancheria. In fact, the Tribe sought the discharge permit only as its wastewater treatment plant began operation. As such, much of the information provided in the application consists of estimates or unreliable preliminary data upon which a permit should not be based.

The County's prior concerns regarding operation of the water treatment plant also apply to the current permit application. For example, the Permit Application or Engineering Report do not disclose who will operate and maintain the wastewater treatment plant and disposal facilities. It

is imperative that properly trained and licensed personnel operate the facilities, especially if the plant may impact waters of the State. The Rancheria and USEPA need to be keenly aware of the fact that discharges could impact not only the environment but also the drinking water supply for about 700,000 people in the region. The USEPA should require a minimum level of competence (for example, a particular level of wastewater operator license) for personnel operating the facilities in any issued NPDES permit..

The risks posed by improperly operated wastewater treatment plants were demonstrated just this week when the Thunder Valley Indian Casino in Auburn, California was cited for over 100 "serious violations" of pollution discharge limits. As the attached March 19, 2006 Sacramento Bee article describes, the Casino's plant discharged high levels of bacteria, polluting the Sacramento River. Everything possible must be done to prevent similar and foreseeable discharges into the Russian River watershed.

The comments that follow are based upon an analysis by County water engineers of the Dry Creek Rancheria's NPDES Permit Application and Engineering Report (dated February 2005) submitted to the USEPA on February 17, 2005 and supplemental information submitted on June 30, 2005.

On a positive note, the Engineering Report indicates that the Rancheria intends to comply with many standards (California Regional Water Quality Control Board Basin Plan and California Department of Health Services Title 22) that apply to other discharges in the region. There is concern, however, over what appear to be contradictions in the Report that seem to state both that the proposed permit would limit "discharges in accordance with the provisions of the Water Quality Control Plan for the North Coast Region (Basin Plan) and the Federal Clean Water Act," but also that Basin Plan and Title 22 standards do not apply to the Rancheria's discharges. The applicable standards to which the Tribe is committing itself should be more clearly set forth before a permit is issued.

Engineering Report

Other aspects of the Engineering Report, outlined below, also indicate that it is premature to issue even a preliminary license decision at this time:

Pages 2-3: The Engineering Report states that the existing plant was recently upgraded and expanded (December 2004) to a capacity of 150,000 gallons per day. It appears that the capacity was determined by using assumed influent water quality values for BOD and TSS. The Engineering Report does not include actual influent water quality data for non-conventional pollutants. Instead, estimated values for influent BOD and TSS are assumed to be the same as "typical gaming facility" wastewater. It is also assumed that the wastewater will not contain any significant concentrations of heavy metals or priority pollutants due to a lack of industrial users.

Influent water quality data should have been collected prior to and after the expansion of the plant. This data should be provided in the Engineering Report and used to determine the actual capacity of the wastewater treatment facility. If this data is not representative of expected influent water quality, the Engineering Report should explain why it is not representative.

Page 4: The Engineering Report should include specific information about what form of chlorine is being used at the plant, in its description of the existing wastewater treatment plant process components for "Chlorination/Dechlorination."

Page 5: The Engineering Report states that approximately 1.8 million gallons of storage and 16 acres of spray fields will be constructed at build-out. No water-balance or other information is included in the Engineering Report to demonstrate the adequacy of these facilities. Information should be provided regarding the adequacy of these facilities prior to issuance of an NPDES permit.

Page 7: The Engineering Report states that a seasonal surface water discharge is required for the effluent that cannot be reused on-site. Two receiving waters, Stream P1 and Stream A1, are identified for surface water discharge. The volume of this discharge (total and by discharge location) should be included in the discussion of surface water discharge options.

Page 8: It appears that the volume of the discharge to Stream A1 would be limited to that which can percolate or evaporate. In order to limit this discharge as intended, regular monitoring should be included in the NPDES permit monitoring and reporting requirements. Prior analyses submitted by the County indicate that the Tribe has consistently overestimated the percolation characteristics of soils intended for discharge. Further data and study of this issue is needed and, at a minimum, adjustments in discharge should be required in any NPDES permit to ensure that the discharge functions as intended and does not cause sheet flow onto the existing vineyard located near the terminus of Stream A1.

Pages 12-16: This portion of the Engineering Report is confusing. It is unclear what water bodies are being proposed as the "receiving waters" for compliance purposes in the Engineering Report. Although it appears that receiving water quality data has been and will continue to be collected for Stream A1 and Stream P1, it is not clear how this data will be used to determine reasonable potential, set effluent limitations, or determine receiving water monitoring requirements.

According to the Engineering Report, available receiving water quality data from the Russian River CSD and Town of Windsor are included "[I]n lieu of having a comprehensive summary of receiving water quality data for each of the two proposed receiving waters." Although these plants are approximately 16 and 18 miles downstream of the confluence of the Russian River and

Stream P1, these sampling locations are referred to as "nearby." We do not agree that they are nearby.

The Russian River CSD sampling locations are substantially downstream of the confluence of Stream P1 and the Russian River. More importantly, they are downstream of several major tributaries (Dry Creek, Maacama Creek, Mark West Creek, etc.) to the Russian River. Russian River water quality data should be collected by the applicant near the confluence of Stream P1 and the Russian River and submitted to the USEPA for consideration prior to issuance of an NPDES permit.

Adding to the confusion in this section is the inclusion of the Town of Windsor's receiving water quality data. Since the Town of Windsor discharges to Mark West Creek, not the Russian River, it is not clear why this data is included in the Engineering Report. If this data is meant to be representative of a discharge to a tributary to the Russian River, like the proposed discharge, this should be stated. Additionally, the reasons the data is considered to be representative should be included in the Engineering Report.

Pages 17-24: The majority of the anticipated effluent limitations, receiving water limitations, provisions and prohibitions, monitoring requirements, and water reclamation requirements included in the Engineering Report appear to be consistent with recently adopted permits involving discharges to the Russian River and its tributaries. A few inconsistencies (see below) have been identified, and the list of anticipated effluent limitations does not appear to be complete.

Pages 22-23: The USGS gauging station #11463200 listed on page 22 is the gauge on Big Sulfur Creek, not the Russian River at Cloverdale. We believe the "upstream gauging station" discussed in this portion of the Engineering Report is intended to be the Russian River gauge at Cloverdale, not the one listed.

Page 23: A list of the priority pollutants that are anticipated to be monitored in the effluent (Table 3-13) and receiving water (Table 3-14) should be included in the Engineering Report.

Pages 23-24: It is not clear where the upstream and downstream sampling sites will be for the proposed discharge locations. The specific sites should be included in any NPDES permit issued. Also, receiving water monitoring for temperature (missing from the list of anticipated receiving water monitoring requirements on Table 3-14) should be included in any NPDES permit issued.

General: No anticipated reporting requirements are included in the Engineering Report. Monthly and annual reporting should be included in any NPDES permit issued.

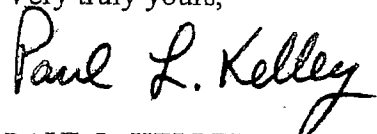
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The above information demonstrates that it is premature to issue a license at this time. As stated above, the health and water contamination risks to neighboring wells, as well as water sources upon which the community depends, requires that additional data be collected and a consultation process of stakeholders take place prior to the USEPA taking any further action on the application.

Very truly yours,



PAUL L. KELLEY, Chairman
Sonoma County Board of Supervisors

Enclosure

PLK:br:18241

c: Cheryl Diehm, Office of Congressman Mike Thompson
Pete Parkinson, Director, Permit and Resource Management Department
Pam Jeane, Sonoma County Water Agency
Bob Van Ness, Esq., Alexander Valley Association

Water board fines Thunder Valley

By Chris Bowman -- Bee Staff Writer

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State water-quality enforcers have fined owners of the Thunder Valley Casino near Lincoln \$435,000 for polluting tributaries of the Sacramento River with inadequately treated sewage.

The United Auburn Indian Community's records show the wastewater flowing out of its sewage treatment plant on numerous days contained concentrations of bacteria that exceeded the state's health limits, according to the Central Valley Regional Water Quality Control Board.

The fine represents the minimum penalty state law requires for persistent violations of wastewater pollution limits, said Kenneth Landau, the board's assistant executive officer, who issued the March 7 action.

Under California's relatively new "mandatory minimum penalty" law, Landau fined Thunder Valley \$3,000 for each of 145 "serious violations" regulators documented in the past three years, from the week the casino opened in June 2003.

Water board officials were not aware of the substandard conditions last March when they permitted the casino owners to expand the treatment works and significantly increase the discharges to streams, according to board records.

Board staff discovered the problems three months later during a routine inspection.

Inspectors cited the casino not only for the effluent violations but also for failing to report recurring breakdowns of its disinfection systems, and for failing to divert the contaminated effluent to holding ponds.

In response to the violations, the casino's wastewater treatment consultants said the owners "responded promptly and responsibly to the problems encountered by immediately adding personnel to evaluate and address the problems."

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