NPDES 10-07

received
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Friends of Amador County

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July 18, 2010

United States Environmental Protection Agency
Environmental Appeals Board (MC 1103B)
Ariel Rios Building
1200 Pennsylvania Avenue NW
Washington D.C. 20460-0001

Regarding: Petition For Review of NPDES Permit No. CA0049675

The Friends of Amador County (FOAC) respectfully petitions the Environmental Appeals Board (EAB) to review the conditions of NPDES Permit No. CA 0049675 to the fee land at the Buena Vista Rancheria for the following reasons:

1. FOAC request review of section B. 2., page 5 of the permit, entitled "Additional Monitoring Requirements". This section reads:

"The permittee shall conduct weekly receiving water quality monitoring for pH, dissolved oxygen, turbidity, total dissolved solids, and temperature at the following locations when water is present in the receiving water:
M001U - Outfall 001 Upstream: Approximately 10' upstream of location where discharge enters receiving water.
M001D - Outfall 001 Downstream: Approximately 100' downstream of location where discharge enters receiving water."

These conditions assume essential findings of fact that have not been made, or even considered. The permit assumes that the "location where discharge enters receiving water" is understood, so that measurements of 10' upstream and 100' downstream, for monitoring purposes, can be made. Where this location is, is anything but clear. "Receiving water" is not defined in the permit. The Fact Sheet, which by its caption is part of the permit, describes "Receiving Water" in section IV on page 3:

"The effluent from the WWTP will discharge to a constructed, vegetated swale south of the parking garage and casino which will travel on-site for approximately 1/2 mile. At the southwest corner of the property (at Coal Mine Rd), the water will flow through a reverse siphon into a drain under Coal Mine Road to an unnamed tributary/drainage channel, which flows east for several miles before entering Jackson Creek. Jackson Creek subsequently flows into Dry Creek and to the lower Mokelumne River."

This leaves the "location where discharge enters receiving waters", for purposes of measuring 10' upstream and 100' downstream entirely unclear and problematic. If this

point is the drain under Coal Mine Road, two problems exist. First, there would be no point "10' upstream", as this would be the treated water itself, and there are no definite waterways that would constitute an "upstream" point to monitor. Second, 100' 'downstream' of Coal Mine Road is private property, and without either permission from the landowners or an easement for such purposes, the requisite monitoring may not be possible. Such permission cannot be assumed.

If the "receiving water" is deemed to be Jackson Creek, measurements upstream and downstream could be taken, but the effluent discharge would already have traveled "several miles" (according to the permit Fact Sheet) through private property, near homes, domestic wells, and through agricultural land. This section would never be tested. And this without ever attaining, or attempting to attain, any drainage easement, let alone an easement for drainage of effluent.

Concerns regarding this particular "several mile" stretch were brought up numerous times during the Public Comment period, as shown in the Final Response to Comments Document dated June 2010, at page 12, comment 7; page 23, comment 7w; and page 31, comment 12-1.

It is requested that the exact location of the "receiving waters" be clarified, and appropriate modifications be made to the permit as necessary.

2. We request review of Part II. SPECIAL CONDITIONS section A., on page 7 of the permit, which reads:

"Erosion Protection
The permittee shall design and install erosion protection measures to prevent erosion from the discharge point to receiving water. The erosion measures shall be designed to protect adjacent wetlands from harm."

Again, the language "from the discharge point to receiving water" is problematic. There is no finding, no clarity, and no guidance as to where this refers. If it is indeed the "several miles" between Coal Mine Road and Jackson Creek, access to that area must be secured. It cannot be assumed that permission to enter these private properties will be granted. As mentioned before, multiple concerns regarding this area were brought up during the public comment period, and can be found in the Final Response to Public Comments on page 12, comment 7; page 23, comment 7w; and page 13, comment 12-1.

It is requested that the area referred to be described specifically, and that any necessary modifications to the special conditions be made accordingly.

3. We request review of Part II. SPECIAL CONDITIONS section C., on page 7 of the permit, entitled: "Reclaimed Water Limitations".

It is requested that a review of this section be made, and that an additional monitoring element of at least one well be required. All 10 limitations in this section deal with surface contact of reclaimed water with potable water. You do not have to be a hydrologist to understand that some surface water goes into the ground, particularly in deep porous topsoil as in the Jackson Valley where the Buena Vista Rancheria Casino is proposed. This is an essential fact that needs to be addressed by the EPA, but has not

been. This is a deep-seated concern to we who live here. Over the years there have been several occurrences in the surrounding Ione area of generational sterility and birth defects. In close proximity to the proposed wastewater discharge point there have been four instances of canine deaths due to cancer. While never proven, these problems could quite likely be linked to tainted domestic wells. In addition, Amador County staff report traces of radioactivity in wells in very close proximity to the proposed wastewater discharge point.

These concerns were brought up several times during the Public Comment period, as reflected in the Final Response to Comments Document at page 29, comment 8; and page 35, comment 17a.

4. We request a review of the annual flooding of roads leading to the proposed casino which will be greatly exacerbated by wastewater discharge of the magnitude allowed by this permit. Even though FOAC provided EPA with photos of the flooding of all possible roads leading to the proposed casino (we provided the photo's twice as they claimed no knowledge of the first ones we sent) the permit ignores the problem. Something as simple as requiring winter storage of wastewater is not required by this permit.

We ask you to revoke Permit No 0049675 or at least send it back for further review so that all issues expressed by the public can be adequately addressed. We implore the EPA to provide complete protection for our household water supply and the surface water runoff that our children and grand children frequently contact.

Conclusion.

All four of FOAC's requests for review involve failure to make essential findings of fact. This results in erroneous presumptions that pose a significant threat to the health and safety of the people of the Jackson Valley, now and in the future. We strongly believe that each of these four requests justifies the exercise of your discretion to grant review.

Respectfully submitted,

Jerry Cascesi, Chairman
Friends of Amador County

Cc. by fax copy
The Honorable Dianne Feinstein
The Honorable Dan Lungren
The Honorable Arnold Schwarzenegger