

**Regional Water Quality Control Board  
Central Valley Region  
Board Meeting – 7-8 June 2012**

**Response to Written Comments for Wawona Packing Co., LLC, Cutler Fruit Packing Plant Tentative Waste Discharge Requirements**

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At a public hearing scheduled for 7-8 June 2012, the Regional Water Quality Control Board, Central Valley Region, (Central Valley Water Board) will consider adoption of Waste Discharge Requirements (WDRs) for Wawona Packing Co., LLC (Wawona), Cutler Fruit Packing Plant (the "Plant"). This document contains responses to written comments received from interested parties regarding the tentative WDRs initially circulated on 30 March 2012. Written comments from interested parties were required by public notice to be received by the Central Valley Water Board by 2 May 2012 to receive full consideration. Comments were received by Ms. Jo Anne Kipps.

Written comments are summarized below followed by the responses of Central Valley Water Board staff.

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**JO ANNE KIPPS COMMENTS**

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**JO ANNE KIPPS – COMMENT No. 1:** Ms. Kipps notes the technical report included in the Report of Waste Discharge (RWD) submitted by Wawona indicates that Wawona purchased the Cutler Fruit Packing Plant in February 2000 and that the Plant was previously owned by five different businesses, four of which are (or were) fruit packing companies. Finding No. 39 of the tentative WDRs states that the Plant has been in operation since 1999. Ms. Kipps states it is unlikely that the Plant could have undergone five ownership changes from 1999 to February 2000. Ms. Kipps recommends that Finding No. 39 of the tentative WDRs be modified to confirm the year in which the Plant first started operating and discharging fruit packing wastewater to land.

**RESPONSE:** The RWD indicates Wawona purchased the Cutler Fruit Packing Plant in February 2000. The tentative WDRs imply that the fruit packing Plant had only been in operation since Wawona acquired it. However, the RWD indicates that previous occupants of the property include Champion Mobile Homes, Riverbend Fruit Packing, Pacific West Fruit Packing, and Apio Fruit Packing. The tentative WDRs have been modified to clarify the findings.

**JO ANNE KIPPS – COMMENT No. 2:** Ms. Kipps suggests that the Wawona discharge has not undergone an adequate CEQA analysis. Ms. Kipps recommends that the Central Valley Water Board withdraw the tentative Order, perform a CEQA evaluation of Wawona's discharge (e.g., prepare an Initial Study and Negative Declaration), update the tentative WDRs, and re-circulate them for public review.

**RESPONSE:** The Board's CEQA evaluation is partially dependent on how the counties within its jurisdiction opt to conduct their land use determinations, which explains why the Board may approach CEQA differently for similar projects in different counties. When a county makes a determination that CEQA applies to a land use change, such as the conversion of non-irrigated land into a land application area, the County will often assume

the role of lead agency, and will prepare environmental documentation with the Central Valley Water Board assuming the role of a responsible agency. However, some counties choose not to require CEQA analyses for certain land use conversions. Instead of requiring analysis for the individual conversions, these counties instead perform an extensive CEQA analysis when they alter their General Plans to set conditions under which these land use conversions can occur. Tulare County approaches certain land use conversions in this way, and has concluded that the Wawona expansion could occur without additional CEQA analysis, as it falls within the conditions set forth in its General Plan. Therefore, the modifications to the Plant, which has been discharging since 2000, have already been authorized. The Board is not authorizing any additional construction, and the regulation of the ongoing discharge falls within the “existing facility” categorical exemption found at California Code of Regulations, title 14, section 15301, which exempts the “operation, repair, maintenance, [and] permitting ... of existing public or private structures, facilities, mechanical equipment, or topographical features” from environmental review, but does not authorize any construction activities. The action may also be considered exempt because it is an action by a regulatory agency for the protection of natural resources (Cal. Code Regs., tit. 14, § 15307.) and an action by a regulatory agency for the protection of the environment (Cal. Code Regs., tit. 14, § 15308.).

**JO ANNE KIPPS – COMMENT No. 3:** Ms. Kipps notes that Finding No. 18 of the tentative WDRs acknowledge that the Plant is in an area subject to flooding by a 100-year event. Discharge Prohibition A.1 prohibits the discharge of waste to surface waters, except as authorized under the General Low Threat NPDES Permit (Order R5-2008-0081), Discharge Specification C.4 requires the discharge to remain at all times within the permitted waste treatment/containment structures and land application areas, and Discharge Specification C.6 requires all conveyance, treatment, storage, and disposal units to be designed, constructed, operated, and maintained “to prevent inundation or washout due to floods with a 100-year return frequency.” Ms. Kipps states that the tentative WDRs do not describe what flood protection measures Wawona has implemented to ensure wastewater impounded in its ponds will not commingle with floodwaters and discharge to nearby Sand Creek or to areas beyond Wawona’s property. Ms. Kipps recommends that the tentative WDRs include a provision requiring Wawona to submit, within two months of WDRs adoption, a technical report describing the flood protection measures Wawona will implement to achieve compliance with Discharge Specification C.6, and to submit within six months of WDRs adoption certification by a California registered civil engineer that Wawona has completed the proposed flood protection measures.

**RESPONSE:** A provision has been added to the tentative Order that requires Wawona to submit within 180 days of WDRs adoption a technical report prepared by a California registered civil engineer that demonstrates all conveyance, treatment, storage, and disposal units are designed constructed and operated to prevent inundation or washout due to floods with a 100-year return frequency.

**JO ANNE KIPPS – COMMENT No. 4:** Ms. Kipps notes that the case file does not include a revised water balance reflecting the replacement of the west pond with the two new ponds described in the tentative WDR findings and the increase in Use Area from 4.2 acres to 7.6 acres. Ms. Kipps recommends that the findings be changed to indicate that the water balance in the RWD does not reflect the currently proposed discharge operation, and include a provision requiring Wawona to submit a revised water balance, prepared by a California-registered civil engineer, reflecting the currently proposed wastewater storage and disposal operation.

**RESPONSE:** A provision has been added to the tentative WDRs that requires Wawona to submit within 120 days of WDRs adoption a revised water balance.

**JO ANNE KIPPS – COMMENT No. 5:** Ms. Kipps states that soil beneath the ponds has not been characterized nor has hydraulic conductivity been measured. Ms. Kipps states that such data should have been included to determine the rate at which wastewater impounded in the two ponds infiltrates into the soil. This information is necessary to develop an accurate water balance. Ms. Kipps recommends that Wawona perform field tests to determine the hydraulic conductivity of soils underlying the two new ponds and use the updated seepage rate data in a water balance that reflects the current proposed discharge operation.

**RESPONSE:** This comment describes a component of the water balance required by the additional Provision described above under Comment No. 4.

**JO ANNE KIPPS – COMMENT No. 6:** Ms. Kipps states that the RWD does not contain a complete characterization of the proposed discharge and that Wawona's discharge is not consistent with State Water Quality Control Board Resolution 68-16 (the "Antidegradation Policy").

Ms. Kipps states that during high groundwater conditions waste constituents in the discharge to the ponds (and in the sludge layer on the pond bottoms) may be released directly to groundwater in concentrations exceeding applicable water quality objectives.

Ms. Kipps also states that Wawona's discharge to unlined ponds during periods of shallow groundwater conditions has the potential to cause groundwater to contain trihalomethanes in concentrations exceeding applicable water quality objectives.

Ms. Kipps notes that Wawona's discharge to the ponds does not undergo any treatment such as primary clarification to remove settleable solids. Therefore, she posits that discharge to the ponds will cause an organic-rich sludge to accumulate on the pond bottoms, and that this sludge layer represents a concentrated source of waste constituents (e.g., nitrogen compounds) that may adversely impact groundwater, especially during high groundwater conditions. She states that Wawona should implement a best practicable treatment or control measure to minimize this degradation (e.g., by providing primary clarification treatment prior to

discharging wastewater to the pond or by storing untreated wastewater in above ground tanks or lined wastewater storage ponds designed, constructed, and maintained to withstand a 100-year flood event).

Ms. Kipps recommends that the tentative WDRs be revised to require Wawona to minimize the degradation caused by its discharge of waste constituents to unlined ponds. Specifically, she states that Wawona should be required to minimize the seepage rate to levels that will minimize the rate at which waste constituents are released to groundwater. She also recommends that Wawona be required to install a network of at least three shallow groundwater wells near the ponds to monitor groundwater elevation and to prohibit use of the ponds for wastewater storage when groundwater elevations encroach that of the pond invert.

**RESPONSE:** As described in the findings in the tentative WDRs, Wawona washes whole stone fruit and whole citrus and packs the washed fruit. It does not slice, dice, or peel the fruit. Culls are removed from the waste stream and hauled off-site for disposal. As a result, available data indicates the quality of the discharge is good – EC of 550 umhos/cm, total nitrogen of 5.2 mg/L, biochemical oxygen demand of 53 mg/L, and total suspended solids of 38 mg/L. Additionally, discharge flows are low – about 44,000 gpd during the stone fruit season and 7000 gpd during the citrus season. Organic and total suspended solids loading rates to the ponds are low, and the residence time is long – 44 to over 180 days. Given the generally high quality of the discharge to the pond and resulting low BOD and TSS loading rates to the ponds, staff does not believe that solids accumulation in the pond bottoms represents a significant threat to water quality. Nonetheless, staff has modified the Monitoring and Reporting Program to include sludge monitoring in the ponds. If substantial quantities of sludge accumulate, the threat to water quality can be evaluated and the WDRs can be reopened, if necessary. With respect to general minerals, direct discharge of the effluent to groundwater may degrade it with EC, sodium, and chloride. However, as documented in the antidegradation findings of the tentative WDRs, staff does not expect this degradation to cause exceedances of water quality objectives, and believes that any degradation that may occur will be consistent with Resolution 68-16.

Regarding disinfection by-products, the WDRs prohibit discharge of waste in a manner that would cause groundwater to exceed water quality objectives. The WDRs also require effluent monitoring for disinfection by-products and other constituents. Staff has increased the monitoring frequency for these constituents during the first year of the WDRs. If disinfection by-products are found in the effluent in concentrations that threaten the quality of underlying groundwater, the WDRs can be reopened to address their presence.

**JO ANNE KIPPS (JK) – COMMENT No. 7:** Ms. Kipps states that because the highest anticipated groundwater elevation in the area appears to be five feet below ground surface, the tentative WDRs should include a finding indicating that the Central Valley Water Board has evaluated the Plant's domestic waste discharge system and finds it consistent with the Board's minimum requirements for such systems (as prescribed in the Basin Plan). Ms. Kipps

recommends that Finding 13 be revised to include information regarding the compliance of the Plant's domestic waste septic system with minimum Basin Plan requirements, particularly the requirement for a minimum five feet of vertical separation between the bottom of leach field trenches and highest anticipated groundwater. She states that if the Plant's domestic waste disposal system does not comply with minimum Basin Plan requirements, the tentative WDRs should be revised to include a time schedule for achieving and maintaining compliance with these minimum requirements. Ms. Kipps also notes that information in the file indicates that Wawona relocated the Plant's domestic wastewater leach field to an area that appears to be within the Use Area

**RESPONSE:** Wawona's domestic waste system is regulated by Tulare County and there is no evidence that it is causing a water quality problem that needs to be regulated by the Central Valley Water Board. The findings have been modified to reflect that the domestic wastewater leach field is separated from the Use Area by a 10-foot buffer. Staff has also added a Use Area Specification that requires Wawona to maintain this buffer.