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In Reply Refer To: EEO 2014-493 and M0814-024

August 15, 2014



VIA FIRST-CLASS MAIL AND E-MAIL

Jeanine Townsend, Clerk to the Board
commentletters@waterboards.ca.gov
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Draft Statewide National Pollutant Discharge Elimination System (NPDES) for
Drinking Water System Discharges to Surface Waters – Comments and Request for
Extension in Permit Adoption Timeline

Dear Ms. Townsend:

Please find enclosed the El Dorado Irrigation District's comments and request for extension on permit adoption for the draft statewide NPDES for drinking water discharges to surface waters. The El Dorado Irrigation District (EID) has been closely following the development of the State Water Resources Control Board's (SWRCB/Board) Draft General NPDES Permit for Drinking Water Systems Discharges to Surface Waters (Draft Permit) and applauds the collaborative approach Board staff has taken with the drinking water industry in its development. As a public water utility, EID owns and operates three separate community water systems in El Dorado County that would be affected by this permit; one system serves a population over 100,000 and the other two serve less than 500 customers each. EID is dedicated to providing high quality drinking water in an environmentally and fiscally responsible manner by complying with all relevant state and federal laws and regulations.

Currently EID's planned and unplanned discharges from its drinking water system are regulated under a "low threat" general permit issued by the Central Valley Regional Water Quality Control Board (CVRWQCB). While EID fully supports in concept a statewide general permit for drinking water discharges, please be advised the Draft Permit, if adopted, will have significant operational and fiscal impacts on EID and nearly all water purveyors throughout the state in its present form. EID respectfully submits its comment and urges the SWRCB to consider our

suggested modifications to the July 3, 2014 Draft Permit. EID firmly believes these suggested changes, if incorporated in the final adoption, will continue to protect surface waters from potential impacts from drinking water discharges while minimizing unnecessary and potentially burdensome monitoring and reporting requirements that offer no significant protection to the environment.

In addition, Board staff on many occasions has indicated there will be more than minor changes to the July 3rd Draft Permit as a result of numerous comments it has received during recently held workshops and the public hearing on August 5th. Anticipating that the Draft Permit will have significant changes, EID urges a 45-day final review period from when the updated Draft Permit is available to the public before Board adoption.

EID appreciates your consideration of these comments and is available to answer any questions or provide clarification as necessary to the Board.

Respectfully,



Jim Abercrombie
General Manager

Enclosure: Comments to the SWRCB Draft Statewide NPDES Permit for Drinking Water System Discharges to Surface Waters, dated August 13, 2014

cc via e-mail:

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Comments

While El Dorado Irrigation District (EID) is in support of a statewide permit for planned and unplanned discharges from drinking water systems it does have specific concerns regarding the proposed July 3, 2014 Draft Statewide NPDES Permit (Permit, Order) as provided by the State Water Resources Control Board (SWRCB, Board). Please find below a listing of our concerns and requested permit language changes where applicable.

1. The Permit states it is applicable to all community drinking water systems unless otherwise exempt. This Permit defines community drinking water systems as “a system with greater than 15 connections that is regulated by the California Department of Public Health (CDPH) or a local county department of health, with the primary purpose of conveying, treating and distributing safe drinking water”. EID request the threshold for applicable service connections (SC) be raised from “greater than 15” to “1,000 or more”. Per CDPH, some small water systems lack financial resources and limited opportunity for economies of scale to meet even primary drinking water standards. Predominantly, these systems are located in disadvantaged communities and/or in rural areas. These water systems typically cannot charge rates sufficient for maintenance and operation, or to undertake infrastructure repairs and upgrades. If the SWRCB is not amenable to exempting very small water systems, EID request the fees and requirement to have a Permit be tiered for very small systems so that systems with less than 1000 SC only need apply if they have direct discharges, not be required to provide a detailed site schematic and only be required to apply BMPs and annual reporting. [Section I(1), page 4]
2. The Permit states water purveyors are exempt from the requirement to obtain a Permit if the water purveyor has entered into a local agreement with the municipal separate storm sewer system (MS4) permittee and the corresponding Regional Water Quality Control Board (RWQCB) confirms, in writing, the local agreement provides sufficient regulation of the subject drinking water system discharges. EID is requesting the Permit stipulate the water purveyor may elect not to enter into an agreement with the local MS4 and this permit will provide coverage for water system discharges to surface water conveyance systems and the water purveyor will NOT be required to enter into additional agreements with other agencies including but not limited to MS4s unless specifically required by either the corresponding RWQCB or SWRQB. [Section I(1,2), page 4]
3. Treated drinking water is defined as “treated ground or surface water and water from drinking water distribution systems, that has been treated by a water treatment facility, and is suitable for human consumption in accordance with the drinking water regulations in Titles 17 and 22 of the California Code of Regulations, including compliance with the Primary Maximum Contaminant Levels (MCLs) and secondary MCLs as a running annual average”. There are occasions where treated water may not meet a MCL for a limited number of constituents and the water system is in a compliance schedule to achieve compliance while it continues to provide drinking water to its customers. Not being able to discharge water within the distribution system to surface waters for

routine maintenance much less for unplanned events would be an excessive burden on a water system while it implements treatment changes or capital improvement projects to achieve full compliance with all MCLs. EID requests changing the Permit language to “for the purposes of this Order, treated water refers to ground or surface water that has been treated with a disinfectant by a water treatment facility.” If the Board elects not to adopt EID’s recommendation, EID proposes the following alternate language “to be eligible for coverage under this Permit, discharge of treated water may not cause or contribute to the receiving water exceeding a primary or secondary drinking water MCL, on a running annual average basis” as also defined for raw waters in this Permit. However, it is unclear how the Board expects demonstration of compliance as the Permit does not require monitoring for any MCLs at the receiving stream. For this reason, EID asserts its original recommendation to eliminate compliance with drinking water MCLs as a prerequisite for approved discharges. [Section I(B)(1), page 5]

4. EID finds the definitions for “raw water” and “potable water” confusing and not consistent with industry terminology. EID recommends eliminating both the terms raw and potable and using “untreated water” instead. EID recommends the following definition “For the purposes of this Order, untreated water refers to ground or surface water that has not been treated with a disinfectant by a water treatment facility”. [Section I(B)(3), page 6]
5. The Permit states “to be eligible for coverage under this Permit, discharge of raw water may not cause or contribute to the receiving water exceeding a primary or secondary drinking water MCL, on a running annual average basis.” As stated above, EID suggest raw water be replaced with untreated water and that approval to discharge not be linked to compliance with MCLs. This requirement puts the burden on the water purveyor to document the baseline level of all MCLs in the receiving stream and then document any planned or unplanned discharges did not cause an exceedance. The assumption in the Permit is that all receiving waters meet MCL levels. EID strongly disagrees with this assumption; for example the secondary MCL for color will almost always be exceeded in surface waters. EID requests compliance with drinking water MCLs be eliminated as a prerequisite for approval to discharge untreated waters. [Section I(B)(3), page 6]
6. This Order covers both planned and emergency discharges. EID request the term “emergency” be replaced with “unplanned” as it more accurately reflects these type of discharges. EID request the following definitions be incorporated in Attachment A (Definitions):
 - Planned discharges are defined as discharges resulting from a water purveyor’s essential operations and activities undertaken to comply with the federal Safe Drinking Water Act, the California Health and Safety Code, California Code of Regulations Title 17 and 22, AWWA guidance standards, permits issued by local county departments of health, and any regulations, permits, or guidance issued by DDW in order to provide reliable and safe drinking water. Planned discharges include regularly scheduled, automated, and non-regularly scheduled activities that must take place to comply with mandated regulations and that the water purveyor knows in advance will result in a discharge.

- Unplanned discharges are due to a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services, including the provision of drinking water supplies in accordance with applicable drinking water statutes and regulations. Unplanned discharges include, but are not limited to, occurrences due to facility leaks, system failures, catastrophic events, or other emergency events involving a clear and imminent danger to public health and safety.
7. The Permit requires water systems to provide a site schematic. EID has concern with the requirement to show “the portion of the community water system that discharges within a 300-foot conveyance distance from the receiving water(s) and/or within a 300-foot radius of the receiving water(s)”. Water systems do not have just one or two dedicated points of discharge; water systems can discharge on a daily basis from fire hydrants, sample stations, auto flushers, etc., and there can be main breaks anywhere along a transmission main or service lateral. To provide this level of map detail would require extensive time and mapping resources and likely only produce large shaded areas on a map that would offer no other information to the Board other than yes portions of the system can discharge within 300 feet of receiving water and the water purveyor is aware of this. For this reason EID request the requirement be removed from the mapping requirements. [Section II(B)(c)(vi), page 8]
8. The Permit requires the water purveyor to implement Best Management Practice (BMP) practices and measurements for ALL discharges to maintain compliance with final effluent limitations and specifications, receiving limitations, and to achieve specific performance measures listed in the Permit. Currently EID is operating under a low-threat discharge permit issued by the Central Valley RWQCB that provides exemption from reporting, monitoring and BMPS for certain discharges. The following activities are exempt in our current discharge permit:
- Discharges of raw, untreated water with no chlorine residual; (only exempt from de-chlorination practices)
 - De minimus discharges – de minimus discharges include, very small discharges on 1,000 gallons per event or less from a variety of activities, other than
 - i.* Trench dewater during distribution system maintenance and construction;
 - ii.* Main or hydrant flushing (for any purpose)
 - iii.* Main dewatering (for any purpose)
 - iv.* Tank or reservoir dewatering
 - Unplanned discharges at unstaffed locations (e.g., reservoir overflows)
 - Discharges to land – any discharges to land that are absorbed into the ground and involve minimal or no runoff;
 - Discharges from system leakage (e.g., from the underdrain systems, leakage from altitude valves, pressure reducing stations, and backflow devices) or overflows from water treatment basins.

It is important to remember that small incremental discharges of treated water occur daily throughout the state from residential and commercial irrigation run-off and other activities. The District respectively request that it is not required to implement BMPs for very small discharges of 1,500 gallons per event or one gallon per minute continuous flows that may or may not discharge to surface waters as the BMPs may offer no positive impact to the environment, add yet another chemical (a de-chlorination agent) to the environment, and add more resource and labor cost to routine maintenance activities. In addition, not exempting small incremental system leakages may put the water system at risk for third party plaintive lawsuits for failure to demonstrate BMPS implementation for every drop of water discharged from the water system. [Section VIII(C)(2), page 18]

9. Attachment C –Best Management Practices (BMPs) states “ a Discharger that applies copper-based herbicides or zinc-based corrosion inhibitors to its water must implement BMP measures to eliminate or reduce copper and zinc concentrations in its discharges to the extent feasible including but not limited to the following:
- i. Record keeping of where, when and how much zinc or copper is used to treat water that has the potential to be discharged to a surface water.
 - ii. Implementation of BMPs that eliminate planned discharges and minimize emergency discharges to surface water bodies from occurring within 48 hours of applying copper-based herbicides or zinc-based corrosion inhibitors.
 - iii. Implementation of BMPs to eliminate or reduce to the extent feasible the use of copper-based herbicides or zinc-based corrosion inhibitors by using less toxic agents or other methods in place of copper-based herbicides or zinc-based corrosion inhibitors.”

EID is unsure if the Board staff understands that when a water purveyor is required to use any corrosion inhibitor is must continuously feed the chemical at an appropriate dose at the water treatment plant to ensure optimal ongoing corrosion inhibition. It is impossible to stop using the corrosion inhibitor for 48 hours for the numerous planned discharges a water purveyor may execute in any given week. It is common practice to record the final concentration of zinc in the treated water and the water purveyor could calculate the total pounds per day of zinc is putting into the water system or it could also calculate the estimated pounds of zinc in an individual discharges but strongly asserts there should be a volume limit for when a water purveyor should calculate the potential amount of discharge zinc to the surface water. EID is not comfortable assuming all zinc in a given days supplied to the water system was discharge to surface waters as that is obviously an overly conservative statement. EID respectively request the entire section be stricken from the Permit or Attachment C, Section II(C)(i and ii) be stricken or re-written to more accurately reflect actual operation scenarios. [Attachment C, II(C), page C-3]

EID is also concerned Board staff does not understand how copper-base herbicides are used in the drinking water industry. Typically water system that use a surface water that has seasonal algae blooms that affect the water quality of the treated water supply will apply a copper-based herbicide under a permitted process directly to the raw water supply. The purveyor records its chemical use as required under its permit. EID has the same concerns in how and when the Permittee is to calculate potential copper it may be discharging to surface waters as mentioned above for zinc. EID respectively request the entire section be stricken from the Permit or Attachment C, Section II(C)(i and ii be stricken or re-written to more accurately reflect actual operation scenarios. [Attachment C, II(C), page C-3]

10. EID for the most part is very satisfied with the monitoring and reporting requirements of the Permit. It finds the annual reporting and representative monitoring sections as vast improvements to its current Low Threat Discharge Permit. The following are a few critical changes EID request to be incorporated into Attachment E of the Permit:

- EID uses automated flushers that discharge directly into surface waters on regular bases over a 24 hour period based on demand schedules. For this type and other frequent and planned events EID request to be able to perform one-time per year representative monitoring. However, if the Board elects to continue to require planned event monitoring of all direct discharges, the provisions should include a threshold requirement of 150,000 gallons. That is, if the Board retains planned event monitoring for discharges into waters of the U.S., the requirement should only apply to direct discharge events of 150,000 gallons or more per event. Please see item eight of this document for further rationale for EID's request.
- The Permit currently requires handheld chlorine measuring devices with a method detection limit (MDL) of 0.10 mg/L or lower. This requirement is improper. The Permit should allow for compliance with measurements to be performed using a U.S. EPA approved method, as described in 40 C.F.R §136.3. The Permit should not specify the type of meter or MDL. Rather, water purveyors should be allowed to select any method to measure compliance, so long as the method is approved by the U.S. E.P.A. Furthermore, an MDL for chlorine should not be included in the Permit. Instead, the Permit should include minimum levels (MLs) or reporting levels (RLs), which is consistent with practice in NPDES permits issued for wastewater treatment plants by Regional Boards. Under this approach, measurements below the ML would be deemed in compliance. EID recommends establishing 0.10 mg/L as the ML for chlorine. [Section IX, page 21]
- The Permit currently requires pre notification to the applicable RWQCB of large planned discharges greater than one-acre foot. While these events do not happen often they do on occasion occur for seasonal operation of storage tanks, water storage tank cleaning, tank

inspections, etc. The Permit provides no rationale for this notification and it is likely the RWQCB will have little interest in these types of discharges as long as water purveyors follow appropriate BMPs and monitoring as required in the Permit. EID request this be stricken from the Permit or the threshold changed to an acre foot per day. [Attachment E, Section VI, page E-6]

11. The Permit becomes effective 100 days after the adoption date, which is currently scheduled for September 23, 2014. Based on this schedule, the terms and conditions in the Permit are not effective until, at the earliest, January 1, 2014, which is 100 days after the first possible adoption date. The Permit, however, currently requires water purveyors to submit a Notice of Intent ("NOI") or Notice of Non-Applicability ("NONA") by December 1, 2014. This is impractical, given that the permit will not be in effect at that time. EID recommends that water purveyors be required to submit an NOI or NONA within 30 days of the permit's effective date. [Section II(E), page 12]
12. Water purveyors must submit an NOI or NONA prior to obtaining a Notice of Applicability ("NOA") or Notice of Non-Applicability Approval ("NONAA"). In addition, water purveyors must obtain a NOA or NONNA from the Board prior to releasing any discharges. However, the Permit does not obligate the Board to act, either by issuing a letter of incomplete information, or a NOA or NONNA, within any specified period of time. During the first year of the permit, delay in Board action on NOIs and NONAs could prevent drinking water system discharges indefinitely, unless the water purveyor has another active NPDES permit governing discharges. The Permit also provides that regulatory coverage under existing Regional Board permits for drinking water systems will be terminated upon the earlier Board issuance of an NOA, or one year after the adoption date of the permit. If the Board, who is not obligated to act on NOIs or NONAs within any certain time period, fails to issue either a NONAA or an NOA within one year after adoption, Regional Board permits that might otherwise authorize drinking water discharges will be superseded, and there will be a gap in permit coverage and no authorization for drinking water discharges. Similar to the approach in the General Construction Permit, the Permit should be revised to provide that NOIs and NOAAs are deemed approved upon filing, and discharges may proceed unless approval is revoked by the Board. [Section II(B) and (C), page 8 and 11]
13. Lastly, Board staff has indicated at recent workshops and the public hearing, held August 5, 2014, that it fully expects for more changes to be made to the July 3, Draft Permit as a result of public comments. Under the current schedule, the Board is expected to issue a revised Permit no later than September 13, 2014, with the adoption hearing scheduled for September 23, 2014. As the Board is aware, the public comment period for the Permit closes on August 19, 2014. That means the Board staff has less than 25 working days to review all the comments and make appropriate revisions to the Permit. Given the number and complexity of comments that the Board will receive, it is likely that the Board will require additional time to adequately perform its review. In addition, the schedule is only allowing less than 10 working days for stakeholders to review the revised Permit

before adoption by the Board. EID respectfully request at least an additional 30 days for public comment after the updated Permit is released prior to adoption by the Board.