



California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

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3 June 2007

Dr. Karl Longley, Chairman
Ms. Pamela Creedon, Executive Officer
Mr. Kenneth Landau, Assistant Executive Officer
Mr. Jim Pedri, Principle WRCE
Mr. Daniel Warner
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6144

VIA: Electronic Submission
Hardcopy if Requested

RE: Waste Discharge Requirements (NPDES No. CA0082490) for Burney Forest Products, A Joint Venture, North American Energy Services, Shasta Green, Inc., and Fruitgrowers Supply, Burney Forest Power Cogeneration Plant and Sawmill, Shasta County

Dear Messrs. Longley, Landau, Pedri, Warner and Ms. Creedon:

The California Sportfishing Protection Alliance and Watershed Enforcers (CSPA) has reviewed the Central Valley Regional Water Quality Control Board's (Regional Board) tentative NPDES permit (tentative or proposed permit) for Burney Forest Products (Discharger) and submits the following comments.

CSPA requests status as a designated party for this proceeding. CSPA is a 501(c)(3) public benefit conservation and research organization established in 1983 for the purpose of conserving, restoring, and enhancing the state's water quality and fishery resources and their aquatic ecosystems and associated riparian habitats. CSPA has actively promoted the protection of water quality and fisheries throughout California before state and federal agencies, the State Legislature and Congress and regularly participates in administrative and judicial proceedings on behalf of its members to protect, enhance, and restore California's degraded surface and ground waters and associated fisheries. CSPA members reside, boat, fish and recreate in and along waterways throughout the Central Valley, including Shasta County.

We're beginning to wonder if anybody at the Regional Board reviews permits before they're issued anymore. The proposed Permit states that the discharge is purely stormwater. Yet the data reveals concentrations of electrical conductivity at 6,990 umhos/cm, cadmium at 0.298 ug/l, copper at 3.46 ug/l, iron at 4,540 ug/l, lead at 2.75 ug/l, silver at 0.425 ug/l and zinc was 189 ug/l. All of the concentrations for these constituents are above criteria. Incredibly, no effluent limitations are included for these

constituents. Surely, everything in Redding must die every time it rains! The “logic” in the proposed Permit seems to be that, once rainfall is allowed to flush pollutants, all flows are only stormwater. However, the sampling data demonstrates that the proposed Permit’s assumptions regarding stormwater are incorrect; the discharge is a point discharge of “wastewater” and is characteristic of the regulated industry.

The discharge contains cooling tower and boiler blowdown. Cooling towers and boilers are well know to contain a significant list of polluting chemicals which are utilized to control scaling, biological growths and to prevent metallic corrosion. Many of these constituents are listed above showing problematic concentrations. However the permit fails to address the long list of chemical additives that are routinely used at these facilities. Our specific comments are as follow:

- 1. The proposed Permit establishes Receiving Water Limitations for cadmium, copper, iron, lead, EC, silver and zinc which grants mixing zones for each constituent without and mixing zone study contrary to requirements of the Basin Plan and the SIP, grants 100% of the assimilative capacity of the receiving stream, and fails to establish Effluent Limitations for these constituents contrary to 40 CFR 122.44.**

The proposed Permit, Fact Sheet page F-16 Assimilative Capacity/Mixing Zone, states that the Discharger is in the process of conducting a mixing zone study, but the results are not yet available, therefore it is assumed that there is zero available dilution in the receiving stream. The proposed Permit however inappropriately establishes Receiving Water Limitations for cadmium, copper, iron, lead, EC, silver and zinc at the water quality standard for each constituent. This grants a mixing zone for each constituent in the receiving water at the water quality standard. Perhaps the permit writer does not understand the definition of a mixing zone. This is despite that each constituent clearly exceeds water quality standards, as cited in the above comments and throughout the proposed Permit.

The proposed Permit does not include any of the required analyses in order to grant a mixing zone. The Basin Plan, page IV-16.00, requires the Regional Board use EPA’s *Technical Support Document for Water Quality Based Toxics Control (TSD)*. The TSD, page 70, defines a first stage of mixing, close to the point of discharge, where complete mixing is determined by the momentum and buoyancy of the discharge. Since there is no instream diffuser, obviously the wastewater discharge here is not completely mixed in the first stage. The second stage is defined by the TSD where the initial momentum and buoyancy of the discharge are diminished and waste is mixed by ambient turbulence. The TSD goes on to state that in large rivers this second stage mixing may extend for miles. The TSD, Section 4.4, requires that if complete mix does not occur in a short distance mixing zone monitoring and modeling must be undertaken. None of these items have been completed and despite the proposed Permit’s own findings that mixing zone studies have not been completed, mixing zones granting 100% of the assimilative capacity of the receiving stream have been granted.

The extensive SIP, Section 1.4.2.2, requirements for a mixing zone study apply here and must be analyzed before a mixing zone is allowed for this discharge. The proposed Effluent Limitations in the proposed Permit are not supported by the scientific investigation that is required by the SIP and the Basin Plan.

SIP Section 1.4.2.2 requires that a mixing zone shall not:

1. Compromise the integrity of the entire waterbody.
2. Cause acutely toxic conditions to aquatic life.
3. Restrict the passage of aquatic life.
4. Adversely impact biologically sensitive habitats.
5. Produce undesirable aquatic life.
6. Result in floating debris.
7. Produce objectionable color, odor, taste or turbidity.
8. Cause objectionable bottom deposits.
9. Cause Nuisance.
10. Dominate the receiving water body or overlap a different mixing zone.
11. Be allowed at or near any drinking water intake.

The proposed Permit's mixing zones have not addressed a single required item of the SIP. Another very clear unaddressed requirement (SIP Section 1.4.2.2) for mixing zones is that the point(s) in the receiving stream where the applicable criteria must be met shall be specified in the proposed Permit. The "edge of the mixing zone" has not been defined. The proposed Permit fails to defend the granted mixing zones and fails to establish Effluent Limitations for these constituents contrary to 40 CFR 122.44.

2. The proposed Permit fails to include an effluent limitation for EC as required by Federal Regulations 40 CFR 122.44 and the permit should not be adopted in accordance with California Water Code Section 13377.

Federal Regulations, 40 CFR 122.44 (d)(i), requires that; "Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality." The Water Quality Control Plan (Basin Plan) for the Central Valley Region, Water Quality Objectives, page III-3.00, contains a Chemical Constituents Objective that includes Title 22 Drinking Water Maximum Contaminant Levels (MCLs) by reference. The Title 22 MCLs for EC are 900 $\mu\text{mhos/cm}$ (recommended level), 1,600 $\mu\text{mhos/cm}$ (upper level) and 2,200 $\mu\text{mhos/cm}$ (short term maximum).

The Basin Plan states, on Page III-3.00 Chemical Constituents, that "Waters shall not contain constituents in concentrations that adversely affect beneficial uses." The Basin Plan's "Policy for Application of Water Quality Objectives" provides that in implementing narrative water quality objectives, the Regional Board will consider numerical criteria and guidelines developed by other agencies and organizations. This application of the Basin Plan is consistent with Federal Regulations, 40CFR 122.44(d).

For EC, Ayers R.S. and D.W. Westcott, *Water Quality for Agriculture, Food and Agriculture Organization of the United Nations – Irrigation and Drainage Paper No. 29, Rev. 1, Rome (1985)*, levels above 700 $\mu\text{mhos/cm}$ will reduce crop yield for sensitive plants. The University of California, Davis Campus, Agricultural Extension Service, published a paper, dated 7 January 1974, stating that there will not be problems to crops associated with salt if the EC remains below 750 $\mu\text{mhos/cm}$.

The wastewater discharge maximum observed EC was 6990 $\mu\text{mhos/cm}$. Clearly the discharge exceeds the MCLs for EC presenting a reasonable potential to exceed the water quality objective. The proposed EC limitation clearly exceeds the agricultural water quality goal and the MCL for EC of 700 $\mu\text{mhos/cm}$. The proposed Order fails to establish an effluent limitation for EC that are protective of the Chemical Constituents water quality objective. The wastewater discharge increases concentrations of EC to unacceptable concentrations adversely affecting the agricultural beneficial use. The wastewater discharge not only presents a reasonable potential, but actually causes, violation of the Chemical Constituent Water Quality Objective in the Basin Plan. The available literature regarding safe levels of EC for irrigated agriculture mandate that an Effluent Limitation for EC is necessary to protect the beneficial use of the receiving stream in accordance with the Basin Plan and Federal Regulations. Failure to establish effluent limitations for EC that are protective of the Chemical Constituents water quality objective blatantly violates the law.

California Water Code, Section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

3. The proposed Permit fails to include an effluent limitation for cadmium as required by Federal Regulations 40 CFR 122.44 and the permit should not be adopted in accordance with California Water Code Section 13377.

Federal Regulations, 40 CFR 122.44 (d)(i), requires that; “Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.” The Basin Plan Water Quality Standard for cadmium is 0.141 $\mu\text{g/l}$ and the CTR criteria is 0.849 $\mu\text{g/l}$. The wastewater discharge maximum observed cadmium was 0.298 $\mu\text{g/l}$. Clearly the discharge exceeds the Basin Plan water quality objective. The proposed Order fails to establish an effluent limitation for Cadmium.

California Water Code, section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

4. The proposed Permit fails to include an effluent limitation for copper as required by Federal Regulations 40 CFR 122.44 and the permit should not be adopted in accordance with California Water Code Section 13377.

Federal Regulations, 40 CFR 122.44 (d)(i), requires that; “Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.” The CTR Water Quality Standard for copper is $2.926 \mu\text{g/l}$ and the Basin Plan Standard is $2.91 \mu\text{g/l}$. The wastewater discharge maximum observed copper concentration was $12.38 \mu\text{g/l}$. Clearly the discharge exceeds the water quality objective. The proposed Order fails to establish an effluent limitation for copper.

California Water Code, section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

5. The proposed Permit fails to include an effluent limitation for iron as required by Federal Regulations 40 CFR 122.44 and the permit should not be adopted in accordance with California Water Code Section 13377.

Federal Regulations, 40 CFR 122.44 (d)(i), requires that; “Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.” The Water Quality Standard in the Basin Plan Chemical Constituents as a Maximum Contaminant Level for drinking water for iron is $300 \mu\text{g/l}$. The wastewater discharge maximum observed $412 \mu\text{g/l}$. Clearly the discharge exceeds the water quality objective. The proposed Order fails to establish an effluent limitation for iron.

California Water Code, section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or

authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

6. The proposed Permit fails to include an effluent limitation for lead as required by Federal Regulations 40 CFR 122.44 and the permit should not be adopted in accordance with California Water Code Section 13377.

Federal Regulations, 40 CFR 122.44 (d)(i), requires that; “Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.” The CTR Water Quality Standard for lead is 0.590 $\mu\text{g/l}$. The wastewater discharge maximum observed 2.750 was ug/l . Clearly the discharge exceeds the water quality objective. The proposed Order fails to establish an effluent limitation for lead. California Water Code, section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

7. The proposed Permit fails to include an effluent limitation for silver as required by Federal Regulations 40 CFR 122.44 and the permit should not be adopted in accordance with California Water Code Section 13377.

Federal Regulations, 40 CFR 122.44 (d)(i), requires that; “Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.” The CTR Water Quality Standard for silver is 0.363 $\mu\text{g/l}$. The wastewater discharge maximum observed discharge concentration for silver was 0.425 ug/l . Clearly the discharge exceeds the water quality objective. The proposed Order fails to establish an effluent limitation for silver. California Water Code, section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or

limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

8. The proposed Permit fails to include an effluent limitation for zinc as required by Federal Regulations 40 CFR 122.44 and the permit should not be adopted in accordance with California Water Code Section 13377.

Federal Regulations, 40 CFR 122.44 (d)(i), requires that; “Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.” The CTR Water Quality Standard for zinc is 6.649 $\mu\text{g/l}$. The wastewater discharge maximum observed discharge concentration for zinc was 189.0 ug/l . Clearly the discharge exceeds the water quality objective. The proposed Order fails to establish an effluent limitation for zinc. California Water Code, section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

9. The proposed Permit contains an effluent limitation for acute toxicity that allows mortality that exceeds the Basin Plan water quality objective and does not comply with Federal regulations, at 40 CFR 122.44 (d)(1)(i).

Federal regulations, at 40 CFR 122.44 (d)(1)(i), require that limitations must control all pollutants or pollutant parameters which the Director determines are or may be discharged at a level which will cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality. The Water Quality Control Plan for the Sacramento/ San Joaquin River Basins (Basin Plan), Water Quality Objectives (Page III-8.00) for Toxicity is a narrative criteria which states that all waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life. This section of the Basin Plan further states, in part that, compliance with this objective will be determined by analysis of indicator organisms.

The Tentative Permit requires that the Discharger conduct acute toxicity tests and states that compliance with the toxicity objective will be determined by analysis of indicator organisms. However, the Tentative Permit contains a discharge limitation that allows 30% mortality (70% survival) of fish species in any given toxicity test.

The Regional Board has looked hard and long to find some citation as to the source of the limitation that would allow or recommend 10% and 30% mortality, such a

find however does not eliminate the more restrictive applicable Basin Plan objective that simply prohibits the discharge from causing mortality in the receiving stream.

For an ephemeral or low flow stream, such as the case here, allowing 30% mortality in acute toxicity tests allows that same level of mortality in the receiving stream, in violation of federal regulations and contributes to exceedance of the Basin Plan's narrative water quality objective for toxicity. Accordingly, the proposed Permit must be revised to prohibit acute toxicity in accordance with Federal regulations, at 40 CFR 122.44 (d)(1)(i).

10. The proposed Permit does not contain an effluent limitation for chronic toxicity and therefore does not comply with Federal regulations, at 40 CFR 122.44 (d)(1)(i) and the SIP.

Proposed Permit, State Implementation Policy, states that: "On March 2, 2000, the State Water Board adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (State Implementation Policy or SIP). The SIP became effective on April 28, 2000 with respect to the priority pollutant criteria promulgated for California by the USEPA through the NTR and to the priority pollutant objectives established by the Regional Water Board in the Basin Plan. The SIP became effective on May 18, 2000 with respect to the priority pollutant criteria promulgated by the USEPA through the CTR. The State Water Board adopted amendments to the SIP on February 24, 2005 that became effective on July 13, 2005. The SIP establishes implementation provisions for priority pollutant criteria and objectives and provisions for chronic toxicity control. Requirements of this Order implement the SIP." The SIP, Section 4, Toxicity Control Provisions, Water Quality-Based Toxicity Control, states that: "A chronic toxicity effluent limitation is required in permits for all dischargers that will cause, have a reasonable potential to cause, or contribute to chronic toxicity in receiving waters."

Federal regulations, at 40 CFR 122.44 (d)(1)(i), require that limitations must control all pollutants or pollutant parameters which the Director determines are or may be discharged at a level which will cause, or contribute to an excursion above any State water quality standard, including state narrative criteria for water quality. The Water Quality Control Plan for the Sacramento/ San Joaquin River Basins (Basin Plan), Water Quality Objectives (Page III-8.00) for Toxicity is a narrative criteria which states that all waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life. The Proposed Permit states that: "...to ensure compliance with the Basin Plan's narrative toxicity objective, the discharger is required to conduct whole effluent toxicity testing...". However, sampling does not equate with or ensure compliance. The Tentative Permit requires the Discharger to conduct an investigation of the possible sources of toxicity if a threshold is exceeded. This language is not a limitation and essentially eviscerates the Regional Board's authority, and the authority granted to third parties under the Clean Water Act, to find the Discharger in violation for discharging chronically toxic constituents. An effluent limitation for chronic toxicity must be

included in the Order. In addition, the Chronic Toxicity Testing Dilution Series should bracket the actual dilution at the time of discharge, not use default values that are not relevant to the discharge.

Proposed Permit is quite simply wrong; by failing to include effluent limitations prohibiting chronic toxicity the proposed Permit does not "...implement the SIP". The Regional Board has commented time and again that no chronic toxicity effluent limitations are being included in NPDES permit until the State Board adopts a numeric limitation. The Regional Board explanation does not excuse the proposed Permit's failure to comply with Federal Regulations, the SIP, the Basin Plan and the CWC. The Regional Board's Basin Plan, as cited above, already states that: "...waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses..." Accordingly, the proposed Permit must be revised to prohibit chronic toxicity (mortality and adverse sublethal impacts to aquatic life, (sublethal toxic impacts are clearly defined in EPA's toxicity guidance manuals)) in accordance with Federal regulations, at 40 CFR 122.44 (d)(1)(i) and the Basin Plan and the SIP.

11. The proposed Permit fails to include effluent limitations that were included in the previous Permit, which constitutes backsliding in accordance with Federal Regulations 40 CFR 122.44(l) and 122.62 (a)(16).

The proposed Permit cites that the previous NPDES permit for this facility contained Effluent Limitations that are not carried forth the proposed Permit, although the specific constituents are not listed. Anti-backsliding requirements for reissued NPDES permits are specified in Federal Regulations 40 CFR 122.44(l) and 122.62 (a)(16). The proposed Permit states that removal of the Effluent Limitations is not backsliding because it is more appropriate to regulate the discharge through stormwater best management practices (BMPs). Following the "logic" in the proposed Permit, it would appear that the argument could be made for all point source wastewater discharges; rain water is allowed to flush the pollutants and once that occurs all flows are only stormwater. The sampling verifies the proposed Permit assumptions regarding stormwater are incorrect; the discharge is a point discharge of "wastewater" and is characteristic of the regulated industry. The proposed Permit states that the discharge is purely stormwater yet shows the discharge electrical conductivity at 6,990 umhos/cm, cadmium at 0.298 ug/l, copper at 3.46 ug/l, iron at 4,540 ug/l, lead at 2.75 ug/l, silver at 0.425 ug/l and zinc was 189 ug/l, all above criteria, and all without Effluent Limitations. The stormwater regulations were in place at the time of the previous permits adoption, they are not new regulations. The proposed Permit does not include a single legitimate regulatory citation from the 40 CFR 122.44(l) and 122.62 (a)(16) backsliding exceptions. Removal of necessary Effluent Limitations constitutes backsliding in accordance with 40 CFR 122.44(l) and 122.62 (a)(16) and the Effluent Limitations must be reestablished.

12. The proposed Permit fails to adequately regulate the discharge of ash contrary to CWC Section 13377.

The proposed Permit, Facility Description page 5, states that bottom ash is used onsite for roads. The proposed Permit, same section, then states that “Discharges of ash and cooling tower sludge to surface waters is prohibited.” Clearly the application of substances to road surfaces is discharged to surface waters when it rains. The permit writer may wish to have a discussion with Cal Trans regarding runoff. California Water Code, section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

13. The proposed Permit does not comply with the Board’s Antidegradation Policy by failing to contain limitations that are protective of groundwater quality and require groundwater monitoring in accordance with CWC Section 13377.

The proposed Permit shows that the Discharger utilizes land disposal by discharge to unlined ponds and wastewater flows throughout a large permeable area where it is reasonable to assume that wastewater will percolate to groundwater. California’s antidegradation policy is composed the State Board’s Resolution 68-16 which is included as a part of the Basin Plan. As part of the state policy for water quality control, the antidegradation policy is binding on all of the Regional Boards. Implementation of the state’s antidegradation policy is guided by the State Antidegradation Guidance, SWRCB Administrative Procedures Update 90-004, 2 July 1990 (“APU 90-004”) and Water Quality Order 86-17. The Regional Board must apply the antidegradation policy whenever it takes an action that will lower water quality (State Antidegradation Guidance, pp. 3, 5,18). The proposed action here is renewal of an NPDES permit although the applicable provisions being discussed for land disposal are not federally mandated, an antidegradation analysis is required. The proposed Permit must include a requirement that protects groundwater quality from percolating pollutants. Any antidegradation analysis must comport with implementation requirements in State Board Water Quality Order 86-17 and State Antidegradation Guidance. The discharge of wastewater to unlined ponds at a minimum threatens groundwater quality, mandating monitoring of groundwater quality to determine if degradation has occurred and to what degree. Groundwater monitoring must be required to determine if the wastewater discharge is degrading groundwater quality and commingling and degrading surface water. California Water Code, section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

Thank you for considering these comments. If you have questions or require clarification, please don't hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Jennings". The signature is written in a cursive style with a large, prominent initial "B".

Bill Jennings, Executive Director
California Sportfishing Protection Alliance