



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

OFFICE OF THE
REGIONAL ADMINISTRATOR

JUL 2 2010

Mr. Robert E. Perdue
Executive Officer
California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, California 92260

RE: Approval of the Use of Freshwater Aquatic Life Criteria for City of Imperial NPDES Permit, NPDES No. CA0104400

Dear Mr. Perdue:

The U.S. Environmental Protection Agency ("EPA") has reviewed the *Biological Assessment* (the "Bioassessment") for consideration of the use of alternative freshwater aquatic life criteria in 40 CFR 131.38 by the City of Imperial Wastewater Treatment Facility for a portion of the Dolson Drain. On March 15, 2010, the City of Imperial submitted the Bioassessment to EPA and requested that freshwater criteria be applied to its wastewater discharge into the Dolson Drain. In the Bioassessment, the City of Imperial indicated that its request applied to the receiving waters of the Dolson Drain at the discharge point from the City of Imperial Wastewater Treatment Plant in Imperial, California. The Imperial Wastewater Treatment Plant is currently discharging into the Dolson Drain under the National Pollutant Discharge Elimination System ("NPDES"), Order No. R7-2005-0084, NPDES Permit No. CA0104400.

In accordance with 40 CFR 131.38, EPA is proposing to approve the use of freshwater aquatic life criteria only in the portion of the Dolson Drain specified in the City of Imperial's March 15, 2010 submittal as the receiving waters for the wastewater discharged from the Imperial Wastewater Treatment Plant.

Scope of EPA's Tentative Approval

Today's tentative approval applies to the use of alternative freshwater criteria on a site-specific basis that is subject to EPA's approval authority under 40 CFR 131.38(c)(3). For waters with salinities between 1 and 10 parts per thousand, such as the portion of the Dolson Drain defined herein, 40 CFR 131.38(c)(3) provides that such waters be addressed as follows:

"For waters in which the salinity is between 1 and 10 parts per thousand as defined in paragraphs c(3)(i) and (ii), the applicable criteria are the more stringent of the freshwater or

saltwater criteria. However, the [EPA] Regional Administrator may approve the use of the alternative freshwater or saltwater criteria if scientifically defensible information and data demonstrate that on a site-specific basis the biology of the water body is dominated by freshwater aquatic life and that freshwater criteria are more appropriate; or conversely, the biology of the water body is dominated by saltwater aquatic life and that saltwater criteria are more appropriate. Before approving any change, EPA will publish for public comment a document proposing the change."

Thus, pursuant to 40 CFR 131.38(c)(3), the Colorado River Basin Regional Water Quality Control Board adopted Order No. R7-2005-0084, NPDES No. CA0104400 for the City of Imperial with the most stringent of the freshwater or saltwater criteria.

Approval to use freshwater criteria in a segment of the Dolson Drain, defined as the Imperial Wastewater Treatment Facility's discharge point into Dolson Drain, would not apply to Dolson Drain in its entirety, but only to the portion that is the subject of today's tentative approval.


Discussion and EPA's Tentative Approval

Barrett's Biological Surveys (on behalf of the Imperial Wastewater Treatment Plant) conducted a site-specific assessment of the biology of the Dolson Drain surrounding the discharge location, pursuant to 40 CFR 131.38(c)(3), to determine whether the species observed are more typical of a freshwater or saltwater environment. The Bioassessment was conducted at the discharge location into the Dolson Drain. Sampling stations were established at the outfall and 100 meters downstream. At each sampling station the following data were collected: water salinity, dominant vegetation, aquatic organisms, and animals. The water salinity ranged from 3 parts per thousand at the discharge to 4 parts per thousand downstream of the discharge. According to the Bioassessment, the dominant species of vegetation included curly dock and salt cedar. Also observed were alkali heliotrope, watergrass, Mexican sprangletop, *Phragmites*, cattails, goosefoot, and ditchgrass. Eurasian watermilfoil was growing on the bottom of the drain and is considered a non-native freshwater plant. While vertebrates such as crickets and grackles were observed to be in the area of discharge, no aquatic invertebrates or fish were observed.

EPA agrees with the conclusion that Dolson Drain, in the vicinity of the Imperial Wastewater Treatment Facility, is more typical of a freshwater ecosystem than a saltwater system. Therefore, EPA believes that the freshwater criteria are appropriate. However, in accordance with 40 CFR 131.38(c)(3), EPA shall give public notice that it is proposing to approve the use of alternative freshwater aquatic life criteria for this portion of Dolson Drain. EPA shall jointly public notice this letter with the Colorado River Basin Regional Water Quality Control Board's public notice for the proposed re-opening of the City of Imperial's NPDES permit, Order No. R7-2005-0084, NPDES Permit No. CA0104400. EPA will take into consideration and respond to comments received by EPA during the public comment period.

If there are any questions regarding our tentative approval action, please contact Matthew Mitchell, of the Standards and TMDL Office, at (415) 972-3508. As always, we look forward to continued cooperation with the Colorado River Basin Regional Water Quality Control Board in achieving our mutual environmental goals.

Sincerely,

Handwritten signature of Keim Taka in black ink.Handwritten signature of Jared Blumenfeld in black ink.

Jared Blumenfeld
Regional Administrator

cc: John Carmona, Colorado River Basin Regional Water Quality Control Board
Brian Knoll, Albert A. Webb Associates
Jackie Loper, City of Imperial