



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

APR 09 2009

OFFICE OF THE  
REGIONAL ADMINISTRATOR

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 Heber Wastewater Treatment Plant, NPDES No. CA0104370

Dear Mr. Perdue:

The U.S. Environmental Protection Agency ("EPA") has reviewed the *Biological Technical Report* (the "Bioassessment") for consideration of the use of alternative freshwater aquatic life criteria in 40 CFR 131.38 by the Heber Wastewater Treatment Plant for a portion of Drain 5. On December 17, 2008, the Imperial Irrigation District submitted the Bioassessment to EPA and requested that freshwater criteria be applied to its wastewater discharge into the Central Drain 3-D No. 1 Drain ("Drain 1"). In the bioassessment, the Heber Public Utility District indicated that its request applied to the receiving waters of the Drain 1 at the discharge point from the Heber Wastewater Treatment Plant in Heber, California. The Heber Wastewater Treatment Plant is currently discharging into Drain 1 under the National Pollutant Discharge Elimination System ("NPDES"), Order No. R7-2006-0049, NPDES Permit No. CA0104370.

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 Drain 1 specified in the Heber Public Utility District's December 17, 2008 submittal as the receiving waters for the wastewater discharged from the Heber 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 ppt, such as the portion of the Drain 1 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. R7-2006-0049, NPDES No. CA0104370 for the Heber Public Utility District, with the most stringent of the freshwater or saltwater criteria.

Approval to use freshwater criteria in a segment of the Drain 1, defined as the Heber Wastewater Treatment discharge point into Drain 1, would not apply to Drain 1 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 Heber Wastewater Treatment Plant) conducted a site-specific assessment of the biology of Drain 1 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 Drain 1. Sampling stations were established at the outfall, 100 meters upstream from the outfall, and 220 meters downstream from the outfall. At each sampling station the following data were collected: water salinity, dominant vegetation, and aquatic invertebrates. The water salinity was measured at 2.0 parts per thousand at the three sampling locations. According to the Bioassessment, plant species included quail brush, salt cedar, alkali mallow, curly dock, and mustards. It was not possible to collect fishes or aquatic invertebrates due to the underground piping of the drain downstream and the lack of water upstream. The vertebrates observed were American kestrel, cabbage butterfly, and various ants.

EPA agrees with the conclusion that Drain 1 in the vicinity of the Heber Wastewater Treatment Plant is more typical of a freshwater ecosystem than a saltwater system. Therefore, EPA believes that the freshwater criteria are appropriate. However, prior to a final decision, 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 Drain 1. 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 Heber Public Utility District's NPDES permit, Order No. R7-2006-0049, NPDES Permit No. CA0104370. 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,

  
for Laura Yoshii  
Acting Regional Administrator

cc: John Carmona, CA RWQCB, RB7  
Francisco Rodriguez, Heber Public Utility District