



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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San Francisco, CA 94105-3901

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OFFICE OF THE
REGIONAL ADMINISTRATOR

FEB - 6 2007

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 in City of Brawley
NPDES Permit, NPDES No. CA0104523

Dear Mr. Perdue:

The U.S. Environmental Protection Agency ("EPA") has reviewed the *Bioassessment of New River at the Brawley Wastewater Treatment Plant Discharge* (the "Bioassessment") for consideration of the use of alternative freshwater aquatic life criteria in 40 CFR 131.38 for a portion of the New River. On November 14, 2006, the City of Brawley submitted the Bioassessment to EPA and requested that freshwater criteria be applied to their wastewater discharge into the New River. In this letter, the City of Brawley indicated that its request applied to the receiving waters of the New River at the discharge point from its wastewater treatment facility in Brawley, California. Enclosed is the letter and Bioassessment for your review. The City of Brawley is currently discharging into the New River under the National Pollutant Discharge Elimination System ("NPDES"), Order No. R7-2005-0021, NPDES Permit No. CA0104523

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 New River specified in the City of Brawley November 14, 2006, letter (copy enclosed), as the receiving waters for the wastewater discharged from the Brawley 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 ppt, such as the portion of the New River 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

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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. R7-2005-0021, NPDES No. CA0104523 for the City of Brawley on June 29, 2005, with the most stringent of the freshwater or saltwater criteria for copper, lead, selenium, zinc, and free cyanide.

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

Discussion and EPA's Tentative Approval

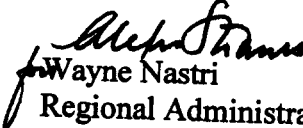
The City of Brawley conducted a site-specific assessment of the biology of the New River surrounding the discharge location, pursuant to 40 CFR 131.38(c)(3), to determine whether the species observed are more typical of a freshwater or saltwater environment. The Bioassessment was conducted at the discharge location into the New River. Sampling stations were established at the point of wastewater discharge, 200 meters upstream from the discharge and 200 meters downstream from the discharge. At each sampling station the following data were collected: water salinity, dominant vegetation, and aquatic invertebrates. The water salinity at the outfall and 200 meters upstream of the outfall was measured at 0 parts per thousand (ppt) while the salinity 200 meters downstream was measured at 1 ppt. According to the Bioassessment, salt cedar (*Tamarix* sp.), common reed (*Phragmites* sp.), and hoary saltbush (*Atriplex canescens*) are the predominate vegetation along the shoreline of the river. These plant species are very common in Imperial County and are not good diagnostic indicators of freshwater or saltwater systems. The Bioassessment did, however, identify two taxa of freshwater aquatic invertebrates including backswimmers (*Notonecta*) and the detached claws of crayfish. In addition, collection of fish indicated the presence of redshiner (*Notropis lutrensis*) which are not known to be tolerant of saline conditions.

EPA agrees with the conclusion that the presence of freshwater species such as redshiners, coupled with refractometer readings of 0-1 ppt, suggests that the portion of the New River, as specified herein, is a freshwater environment. Therefore, EPA believes that the freshwater criteria for all pollutants 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 the New River. 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 Brawley's NPDES

permit, Order No. R7-2005-0021, NPDES Permit No. CA0104523. 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 CWA Standards and Permits 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 Wayne Nasti
Regional Administrator

6 February 2007

Enclosure

Cc: John Carmona, CA RWQCB, RB7 (w/o Enclosure)
Jose Sepulveda, City of Brawley (w/o Enclosure)