



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 Imperial Irrigation District  
NPDES Permit, NPDES No. CA7000004

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 Imperial Irrigation District's grass carp facilities for a portion of Drain 5. On May 20, 2010, the Imperial Irrigation District submitted the Bioassessment to EPA and requested that freshwater criteria be applied to its wastewater discharge into Drain 5. In the Bioassessment, the Imperial Irrigation District indicated that its request applied to the receiving waters of Drain 5 at the discharge point from the Imperial Irrigation District's grass carp facilities in El Centro, California. The grass carp facility is currently discharging into Drain 5 under the National Pollutant Discharge Elimination System ("NPDES"), Permit No. CA7000004.

In accordance with 40 CFR 131.38, EPA is proposing to approve the use of freshwater aquatic life criteria only in the portion of Drain 5 specified in the Imperial Irrigation District's May 20, 2010 submittal as the receiving waters for the wastewater discharged from its grass carp facilities.

**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 Drain 5 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 NPDES No. CA7000004 for the Imperial Irrigation District with the most stringent of the freshwater or saltwater criteria.

Approval to use freshwater criteria in a segment of Drain 5, defined as the Imperial Irrigation District's grass carp facility discharge point, would not apply to Drain 5 in its entirety, but only to the portion that is the subject of today's tentative approval.

### **Discussion and EPA's Tentative Approval**


The URS Corporation (on behalf of the Imperial Irrigation District) conducted a site-specific assessment of the biology of Drain 5 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 5. Three sampling stations were established in the vicinity of the outfall. At each sampling station the following data were collected: water salinity, dominant vegetation, and aquatic invertebrates. The water salinity ranged from 1.2-2.0 parts per thousand at the three sampling locations. According to the Bioassessment, obligate freshwater species that were observed included crayfish, water boatman, dragon fly, mosquito fish, water fowl, California palm, and cattails. In addition, plant species included salt cedar and salt heliotrope which are equally well adapted to fresh water environments.

EPA agrees with the conclusion that Drain 5 in the vicinity of the grass carp facility 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 5. 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 Imperial Irrigation District's NPDES permit, NPDES Permit No. CA7000004. 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,



 Jared Blumenfeld  
Regional Administrator

cc: John Carmona, Colorado River Basin Regional Water Quality Control Board  
Michael Mizumoto, Imperial Irrigation District