



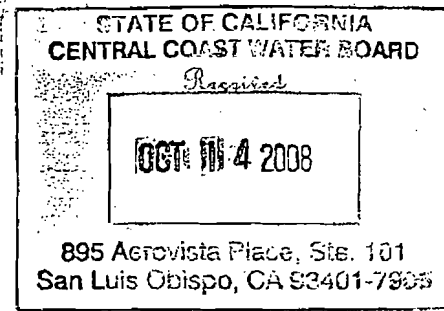
City of Morro Bay

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October 14, 2008

Mr. David LaCaro
California Regional Water Quality
Control Board, Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

Ms. Kathi Moore
U.S. Environmental Protection Agency,
Region IX, WTR-5
75 Hawthorne Street
San Francisco, CA 94105-3901



Subject: Comments on the Proposed Waste Discharge Requirements (Order No. R3-2008-0065, NPDES Permit No. CA0047881) for the Morro Bay/ Cayucos Wastewater Treatment Plant

Dear Mr. LaCaro and Ms. Moore,

Thank you for the opportunity to comment on the proposed discharge permit¹ for the Morro Bay - Cayucos (MBCSD) Wastewater Treatment Plant. MBCSD staff is submitting the following comments based on a comprehensive review of the proposed permit that was conducted by MBCSD staff and their consultant, Marine Research Specialists.

While the language in the Notice only allows for comments on USEPA's Biological Evaluation and concurrence by the U.S. Fish and Wildlife Service, MBCSD is submitting comments based on both the "...USEPA's Biological Evaluation and concurrence by the U.S. Fish and Wildlife Service," (page F-74) as well as the thirty-two (32) modifications noted in Attachment 1 of the Hearing Attachment 1, Modifications from Order R3-2006-0019 to Order R3-2008-0065 for the Morro Bay/Cayucos Wastewater Treatment Facility Modified 301(h) NPDES permit. We have limited our comments on the thirty-two modifications to those items that if left in place will substantially modify this permit language from the permit language heard during the May 2006 renewal hearing.

¹ US Environmental Protection Agency Region Region 9 (USEPA) and the California Regional Water Quality Control Board, Central Coast Region (RWQCB). 2005. *Joint Notice of Proposed Actions on Reissuance of Waste Discharge Requirements [NPDES Permit] to Discharge to the Pacific Ocean for the City of Morro Bay and Cayucos Sanitary District San Luis Obispo County*. Public Notice No. RB3-2008-0065, NPDES No. CA0047881. 4 September 2008.

FINANCE 595 Harbor Street	ADMINISTRATION 595 Harbor Street	FIRE DEPARTMENT 715 Harbor Street	PUBLIC SERVICES 955 Shasta Street
HARBOR DEPARTMENT 1275 Embarcadero Road	CITY ATTORNEY 955 Shasta Avenue	POLICE DEPARTMENT 850 Morro Bay Boulevard	RECREATION AND PARKS 1001 Kennedy Way

MBCSD staff comments are provided below. Attachment A consists of a letter report from Marine Research Specialists discussing the USEPA's Biological Evaluation and concurrence by the U.S. Fish and Wildlife Service as well as recommended revisions to the proposed Draft Order, along with the technical justification for those revisions.

General Comments

Despite our extensive comments on the permit itself, we are immensely gratified by the continued cooperative effort between the staffs of Morro Bay, Cayucos, RWQCB,² and the EPA³ throughout the permit process. Because of our mutual interest in a future upgrade of the treatment plant, development of the permit has been an unusually long and involved process. The staffs of the four agencies should be applauded for effectively negotiating a mutually acceptable settlement agreement that identifies a reasonable conversion schedule for plant upgrades capable of meeting full secondary treatment requirements. The Morro Bay City Council and Cayucos Sanitary District Board ("District") should be commended for their proactive and voluntary decision to go beyond the requirements of the law to upgrade the facility to tertiary treatment. All agency staffs worked cooperatively to establish the conversion schedule based on facility needs identification and analysis for the two respective communities, extensive public input and dialogue, as well as the best professional judgment of a respected environmental engineering firm. MBCSD is strongly committed to the schedule outlined in the settlement agreement and feels that it reflects our continued commitment to protecting the receiving waters and local ecology of Estero Bay. MBCSD looks forward to working with RWQCB and EPA staff during the implementation of the settlement agreement, and to RWQCB assistance in procuring funding for the upgrade project that will be the single largest capital expenditure in the history of either Cayucos or Morro Bay. It is our hope that our commitment to the environment will be recognized and that we can continue to work cooperatively by redirecting much of the monitoring and reporting efforts and costs toward completing our facility upgrade. MBCSD thanks both RWQCB and EPA staff for their cooperation and patience during this process.

During the upgrade process, re-issuing a 301(h)-modified discharge permit to MBCSD is an environmentally sound decision supported by two decades of intensive monitoring. During that time, there have been no measurable impacts from the MBCSD discharge. The four major aspects of the MBCSD discharge that account for the lack of impacts are:

- 1) Discharge volumes are small, only about 1 MGD;
- 2) Effluent solids concentrations are low, and our effluent quality is close to secondary treatment standards;
- 3) The discharge is far removed (2700 ft) from the shoreline where the high-energy open-ocean environment rapidly disperses effluent within 50 ft of the diffuser structure; and
- 4) Effluent contaminant levels are low because domestic wastewater sources dominate in a service area devoid of heavy industry and our existing outreach efforts are effective.

During the upgrade of the MBCSD plant, the RWQCB and EPA decision makers can take comfort in the fact that there will be no tangible impact on the marine environment, or its beneficial uses, by allowing the MBCSD to continue operating under a 301(h)-modified permit. The principal reason for this is that

² The California Regional Water Quality Control Board, Central Coast Region

³ US Environmental Protection Agency Region 9

plant staff works to ensure that nearly all of the effluent is treated to full secondary levels. In addition, the discharge should not materially change during the upgrade period because population growth in the service area is restricted by legislation. Consequently, the discharge volume will remain far below plant capacity enabling nearly all of the wastewater to continue to be treated to secondary levels. In addition, the intensive monitoring required as part of the 301(h) section of the Clean Water Act is "...among the most comprehensive of all municipal ocean discharges of less than 5 MGD in California."⁴ Consequently, the monitoring program will continue to be capable of quickly identifying any potential future impacts so that corrective action can be implemented in a timely fashion. Because of all these considerations, the RWQCB and EPA can rest assured that their decision to re-issue the 301(h)-modified permit to the MBCSD is based on a sound record of performance and the best scientific data.

Reference to Tertiary Upgrades

Within the Draft Order and the associated attachments there are numerous references to upgrading the plant to tertiary treatment. They are located in the following sections:

- Page 2, No.3 of the Public Notice No. R3-2008-0065, NPDES No. CA0047881, Joint Notice of Proposed Actions Public Notice OF Continued Hearings.
- Page 4, 1st paragraph of the Public Notice No. R3-2008-0065, NPDES No. CA0047881, Joint Notice of Proposed Actions Public Notice OF Continued Hearings.
- Page 6, Order NO. R3-2008-0065, II.B
- Pages 12 and 13, Order NO. R3-2008-0065, II.AA
- Page F-4, II.A., Second Paragraph
- Page F-8, II.D., Last Paragraph

MBCSD staff insists that any reference to the upgrade project for the WWTP should be modified to read "*at least full secondary or tertiary treatment*". This modification would be consistent with the third Conservation Measure contained in the Biological Evaluation (BE) from USEPA, which states, "*Facility upgrade to at least full secondary or tertiary treatment by 2014.*" As correctly noted in the BE, "*These measures have been agreed to by both the applicant and RB3...*" (Page 6 of the BE) While the City and District have elected to upgrade the facility to tertiary treatment for the protection of the environment, this policy decision from the City Council and District Board exceeds the full secondary treatment requirements set forth in 40 C.F.R. Part 133. The Regional Board has no findings or basis to include the requirement to upgrade to tertiary treatment in the Draft Order.

In addition, modification of the language to read "*at least full secondary or tertiary treatment*" would be consistent with the Settlement Agreement agreed to by the City and District and Regional Board staff, which states, "*The Discharger agrees to undertake a program to install and operate equipment at its treatment plant capable of achieving, and that will achieve, full secondary treatment requirements set forth in 40 C.F.R. Part 133, other than 40 C.F.R. section 133.105.*" (Page 4 of the 8.5 Year Settlement

⁴ Page F-12, of the Proposed NPDES Discharge Permit, Attachment F-Fact Sheet

Agreement) On page 12, II.AA of the Draft Order, it states that, "*The Discharger has agreed to upgrade the Facility to tertiary treatment pursuant to a settlement agreement with the Central Coast Water Board.*" This statement is misleading, is not consistent with the record to date, and does not accurately reflect the language in the settlement agreement cited above.

Modification of the language referencing tertiary treatment to include "*at least full secondary or tertiary treatment*" will not change the City and Districts commitment to upgrading the treatment plant to tertiary treatment in the allotted time schedule. In fact, City and District staff would like to reiterate their commitment to successfully completing the tertiary upgrade project unanimously adopted by the City Council and the Cayucos Sanitary District Board. It is important to MBCSD that the Regional Board differentiate between our policy decision (to voluntarily have the upgrade project beyond the requirements for secondary treatment) made by the Governing Bodies of the two communities, and the regulatory requirements to meet full secondary treatment requirements set forth in 40 C.F.R. Part 133. This is an important distinction as no discharger can be compelled to upgrade to tertiary treatment standards under the Clean Water Act and it should be clearly understood that good policy, not regulatory authority, determined the direction and standards to be achieved by the upgrade project. The upgrade to tertiary treatment continues to demonstrate the MBCSD commitment to the protection of our local environment even with the increased financial burden to our rate payers associated with moving beyond the minimum secondary requirements by including a tertiary component to our upgrade project.

Furthermore, the Draft Order and CWA Section 402 (o)(2) and 303 (d)(4) include anti-backsliding requirements. While the numerical limits referenced in the Draft Order will be suitable for a 301(h) modified discharge, the language of the Draft Order includes references to tertiary treatment upgrades. This inconsistent and conflicting language between the numerical limits and the descriptive text could lead to misinterpretations during future permit renewals.

The City and Districts commitment to the upgrade process is demonstrated by the extraordinary progress that has been made to date. In September 2007, MBCSD adopted a Facility Master Plan developed by Carollo Engineers. The recommended project alternative would upgrade the WWTP to tertiary treatment and enable it to discharge 1.5 mgd of tertiary treated effluent to the ocean. The upgrade involves the construction of new oxidation ditches, installation of cloth-media disk filters, a secondary clarifier, centrifuges, a gravity belt thickener, and a chlorine contact basin; full rehabilitation of Digester No. 1 and 2; and improvements to other support facilities. In addition, a number of existing structures would be retired: including the existing chlorine contact basin, trickling filters, solids contact basin, Digester No. 1, and primary clarifiers. The existing onsite composting program at the WWTP is intended to remain unchanged as a result of the proposed project.

Both the City and District have implemented new sewer rate structures based on Draft Revenue Programs developed by Carollo Engineers and adopted in August 2007 and July 2007 for the City and District, respectively. The new rate structures were adopted following a series of public hearings, in compliance with the Proposition 218 public notification and protest procedures, and resulted in significant rate increases being implemented in July of 2008. In addition, the MBCSD has hired Environmental Science Associates (ESA) to perform the Environmental Review and Permitting process which process is well underway.

MBCSD is proud to say that at this point in time they are ahead of the aggressive 8.5 Year Conversion Schedule contained in the Draft Order and are consistent with the directive from our Boards to move forward as quickly as possible. As noted on page 13 of the Draft Order, "...the conversion schedule is reasonable, necessary, and appropriate." Despite the significant progress made to date on the upgrade project, MBCSD will need all the time outlined in the Conversion Schedule to successfully complete the upgrade project in a manner that will provide the maximum benefit to the environment and to the rate payers of the two communities.

Reference to Water Reclamation:

The Draft Order contains discussion of and requirements for implementing a water reclamation program associated with the WWTP upgrade project. MBCSD staff would like to clarify that the current upgrade project does not have a reclamation component at this time as a result of current fiscal constraints. The upgrade project as adopted by the City Council and Sanitary District Board is for a tertiary treated discharge to the ocean. The City and District voted to upgrade the facility to tertiary treatment with the intention to move towards reclamation as soon as economically feasible. Carollo Engineers estimates that a full reclamation project would result in an additional \$5 Million in capital costs to the current upgrade project. Including a water reclamation component in the current project would significantly increase the project cost, on a project that will already be the greatest capital expenditure in the history of the two communities. In these difficult economic times the burden of the upgrade project on the rate payers is already significant.

In order to develop a viable reclamation project we will first need to ascertain the composition of the discharge from our upgraded plant. Once we have determined the composition of effluent that we can consistently produce, we will be able to develop a viable reclamation program designed around the needs and demands of our potential customer base. As such we will not be developing a reclamation infrastructure project until after completion of the tertiary upgrade.

Delete the sentence, "*The eight and one-half year upgrade schedule includes the consideration of technical and funding options for installing tertiary treatment to address recycled water needs.*" (Page 13, II.AA) Please see the discussion above.

Delete Section IV. F. 1. and 2. Reclamation Specifications. (Page 19)

As there are no current plans to implement a water reuse project in the next five year NPDES Permit cycle, the Reclamation Specifications are superfluous and not germane to the Draft Order.

Collection System Requirements

Within the Draft Order and the associated attachments there are numerous references to Sanitary Sewer Overflow Reporting requirements and/or sewage spill history. They are located in the following sections:

- Page E-29, Section XI.B.2
- Page E-32, D.2.
- Page F-24, C., Sewage Spills
- Page F-29, No. 16

MBCSD staff strongly recommends that these references should be removed from the Draft Order as they are redundant with the recently adopted Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (General WDRs). In addition, the Draft Order is for the point source discharge from the treatment facility not the respective collection systems of the two communities. The Draft Order and any discussion within it should focus on the wastewater treatment plant and not the collection systems. As stated in the Draft Order (Pages 11, V. and F-25) both communities have enrolled in the General Waste Discharge Requirements for Sanitary Sewer Systems which establish comprehensive operations and management requirements, as well as comprehensive reporting requirements. As stated in the Fact Sheet, "The Discharger is currently compliant with the regulations of the General WDRs for Sanitary Sewer Systems." (Page F-25)

MBCSD staff recommends that the sewage spill history cited on pages F-24 and F-25 be deleted entirely. This section may have been appropriate for the Draft Order publicly noticed in 2006 when the Draft Order contained collection system requirements for the two agencies. With the adoption and subsequent enrollment of the two agencies in the General WDRs, including this section in the Draft Order is irrelevant to the point source discharge of the WWTP, and is redundant as the collection systems are now regulated by the General WDRs. In addition, this section has no bearing on the discussion of the treatment requirements or evaluation of compliance with permit requirements for the WWTP.

Delete the sentence, "As specified below, the annual report shall also include a summary of any sewage spills or overflows from the collection system." (Page E-29, Section XI.B.2) As noted on page 11, Section II.V, the City and Sanitary District have enrolled their respective collection systems under the General WDRs. The General WDRs have a specific format for reporting spills on a monthly basis. The requirement for the annual report for the wastewater treatment plant to contain a sewage spill summary would be redundant with the requirements in the General WDRs.

Conservation Measure: Cat Litter Outreach Program

Page 27: VI.C.5.b Cat Litter Public Outreach Program

Modify the statement as follows: "The Discharger will target specific commercial and professional establishments to ~~ensure~~ encourage that appropriate policies and procedures are in place to properly dispose of cat waste." As described in the conservation measures contained within the BE, the cat litter outreach program is designed to be an educational tool to minimize the input of cat litter-box wastes into the municipal sewer system, not an enforceable ordinance. In addition, during public outreach to the two existing veterinary clinics in Morro Bay and the two existing pet groomers within Morro Bay, all establishments noted that based upon their current BMP's they do not currently flush cat litter.

Modify the statement as follows: "The Discharger will ~~ensure~~ encourage that the aforementioned establishments develop and implement best management practices prohibiting the flushing of cat litter, ..." As noted above, the cat litter outreach program is primarily designed to be an educational tool not an enforcement mechanism.

Recommended Corrections to Typographical Errors, and other Inaccuracies, and Discrepancies

Provide footnote "3" that is associated with the units associated with the effluent limitations for Chronic Toxicity [Page E-6, Section IV.A First Table]. The NPDES Permit indicates that Chronic Toxicity has a footnote "3," but does not provide the footnote.

Correct the reference from Standard Provision C.16 to C. Central Coast Standard Provisions - General Reporting Requirements C.8 [Page E-29, Section X]. There is no C.16 in the Central Coast Standard Provisions - General Reporting Requirements.

Page E-29, Section XI. B.1: It states that "*the Discharger is currently submitting Self-Monitoring Reports (SMRs) to the State Water Board's California Integrated Water Quality System (CIWQS) Program web site.*" The MBCSD WWTP does not currently submit SMRs electronically to CIWQS at this time. When the CIWQS program was instituted, MBCSD staff was informed that they would continue to submit data to the State Board using the USEPA Discharge Monitoring Forms (DMR) format. MBCSD staff was informed they would not need to submit data electronically until the on-going permit renewal process was completed. MBCSD staff believes that based on the problems experienced by other dischargers currently attempting to submit data to the CIWQS program, that MBCSD staff will need adequate lead time to implement the requirements for successfully submitting data electronically to the CIWQS program.

Correct the reference from Standard Provision C.16 to C. Central Coast Standard Provisions - General Reporting Requirements C.8 [Page E-29, Section XI.B.2]. There is no C.16 in the Central Coast Standard Provisions - General Reporting Requirements.

Page E-31, 5.a. to d: As noted above, MBCSD WWTP does not currently submit SMRs electronically to CIWQS at this time. MBCSD staff believes that based on the experience of other dischargers currently submitting data to the CIWQS program, that they will need adequate lead time to implement the requirements for successfully submitting data electronically to the CIWQS program.

Modify the statement as follows: "*A discussion of any incident of non-compliance at the WWTP and corrective action taken.*" [Page E-32, Section XI.B.5.d.II]. This modification would limit the discussion to incidents of non-compliance at the WWTP. As noted on page 11, Section II.V, the City and Sanitary District have enrolled their respective collection systems under the General WDRs. The General WDRs have a specific format for reporting spills and including a requirement to report sewage spills from the collection system in the annual report for the WWTP would be redundant with the requirements in the General WDRs.

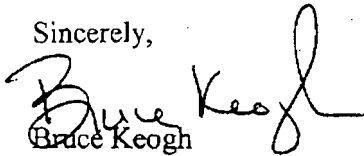
Modify the statement as follows: "*In May 2005, Carollo Engineers returned and presented a 9.5 year time line to the Discharger. The 9.5 year timeline is based on the shortest reasonable time necessary to select an engineering consultant; coordinate between the Dischargers, develop a facility plan, obtain financing and permits, and design and construct the improvements. The 9.5 year timeline requires the Discharger to achieve full secondary compliance with secondary treatment standards by June 23, 2015. The Discharger accepted the 9.5 year timeline and formally proposed it to Water Board staff on June 15, 2005. Water Board staff met with the Discharger July 15, 2005, and tentatively agreed to the 9.5 year timeline. Water Board staff and the Discharger drafted a tentative settlement agreement that enforces the*

9.5 year timeline, and provides for one more 301(h)-modified permit. In April 2006, the Discharger approved an 8.5 year timeline for achieving full secondary compliance with secondary treatment standards by March 31, 2014. The tentative settlement agreement was modified to include the shorter 8.5 year timeline prior to the May 11, 2006 permit renewal hearing." [Page F-7 D.4th Paragraph] The reference to an 8.5 year timeline prior to April 2006 is incorrect, the original settlement agreement with Water Board staff was for a 9.5 year timeline. The Discharger voluntarily and proactively reduced the timeline to 8.5 years in April 2006 to bring our upgrade about as quickly as possible.

Modify the statement as follows: "Bill Callahan, Cayucos Sanitary District" [Page F-30, Section VI.A].

Your consideration and reasoned response to the MBCSD's concerns outlined in the attached documents are greatly appreciated. Please don't hesitate to contact me at (805) 772-6272 with any questions or if you require further information.

Sincerely,



Bruce Keogh

Wastewater Division Manager

cc

Andrea Lueker
City of Morro Bay

Bruce Ambo
City of Morro Bay

Mr. Bill Callahan
Cayucos Sanitary District

Dr. Douglas Coats
Marine Research Specialists

Morro Bay City Council

Cayucos Sanitary District Board of Directors

Attachments