

**Regional Water Quality Control Board
Central Valley Region Board Meeting
10/11 December 2020**

**Response to Written Comments for the
Tasteful Properties, LLC, Tasteful Selections, LLC, and Way-Gin, LP
Tasteful Selections Arvin Facility
Kern County
Tentative Waste Discharge Requirements**

At a public hearing scheduled for 10/11 December 2020, the Regional Water Quality Control Board, Central Valley Region, (Central Valley Water Board) will consider adoption of waste discharge requirements for Tasteful Properties, LLC, Tasteful Selections, LLC, and Way-Gin, LP (collectively referred to as Discharger), for the Tasteful Selections Arvin Facility (Facility) in Kern County. This document contains responses to written comments received from an interested person regarding the tentative waste discharge requirements (WDRs) circulated on 16 September 2020. Written comments were required by public notice to be received by the Central Valley Water Board by 16 October 2020 to receive full consideration. Comments were received from Jo Anne Kipps, a private citizen, on 16 October 2020.

Written comments are summarized below, followed by responses from Central Valley Water Board staff. In addition, staff has made changes to the tentative WDRs in response to the comments.

COMMENTS

JO ANNE KIPPS – COMMENT #1: The tentative Monitoring and Reporting Program (MRP) should include, at least, annual monitoring of dibromochloropropane (DBCP) in source water (Monitoring Location SPL-001) and the wastewater storage pond effluent (Monitoring Location EFF-002).”

RESPONSE: As mentioned in Finding 12 of the tentative WDRs, DBCP was detected in a 2013 source water sample at a concentration (0.73 µg/L) that exceeds the Maximum Contaminant Level for drinking water (0.2 µg/L). Since the Facility has not previously been regulated by WDRs, there is limited water quality data for the site, and, currently, effluent data is not available to characterize DBCP levels in the Facility’s discharge. However, at the beginning of the potato washing process at the Facility, the Discharger adds ozone to the wash water to disinfect the wash water and potatoes. The [State Water Resources Control Board, Division of Water Quality Groundwater Ambient Monitoring and Assessment Program \(GAMA\) Groundwater Information Sheet for Dibromochloropropane \(DBCP\)](#) (revised November 2017) states, “[o]zone is a strong oxidant that can react with and oxidize DBCP to carbon dioxide and water.” Therefore, DBCP should not be present in the effluent discharge.

Staff added annual DBCP monitoring for the source water (Monitoring Location SPL-001) and the wastewater storage pond effluent (Monitoring Location EFF-002) to characterize DBCP concentrations in the source water and effluent and confirm DBCP is not present in the Facility’s discharge. Furthermore, information about DBCP and the Facility’s use of ozone is added to the Information Sheet under the Monitoring Requirements section.

JO ANNE KIPPS –COMMENT #2: Finding 46 in the tentative WDRs should be revised to include information (preferably data) that clearly supports the consultant’s claim that salinity concentrations will not increase with the addition of the recycling water treatment system. Furthermore, the data suggests that salinity (total dissolved solids) appears to increase by 5% per use and that *“repeated re-use of treated processing wastewater may incrementally increase its salinity to levels that compromise its suitability for crop irrigation.”*

RESPONSE: As previously mentioned, there is very limited data available for the Facility. The tentative WDRs include the results of just two source water samples collected from 2013. The average total dissolved solids (TDS) concentration of these two samples were 540 mg/L. The tentative WDRs also include the results of just two pond effluent samples from 2019. The average FDS and TDS concentration of these two samples were 505 mg/L and 565 mg/L, respectively. Since the two data sets (source water and effluent) are approximately six years apart, it is difficult to confidently determine the exact increase in wash water salinity per use at the Facility. However, the data does appear to suggest minimal to no increase in inorganic dissolved solids and potentially a slight increase in organic dissolved solids. When wastewater is applied to land at reasonable agronomic rates, the organic dissolved solids will likely degrade in the soil and not percolate into groundwater. Furthermore, as discussed in response to comment #3 below, due to the very limited discharge volume, the Discharger intends to blend the wastewater with irrigation water. Therefore, a slight increase in the Facility’s discharge should not impact the suitability for the discharge to be used for crop irrigation or result in significant groundwater degradation.

Regarding information about the proposed recycling water system, Central Valley Water Board staff requested twice (via 13 February 2020 email and 30 March 2020 letter) that Tasteful Selections provide more explanation about the potential effect of the water recycling system on the water quality of the discharge. In response, the Discharger contacted their vendor, VAM Water Tech, a Netherlands based company which is the designer and builder of the water recycling system, to get more information on this matter. VAM Water Tech/Tasteful Selections supplied Central Valley Water Board staff electrical conductivity (EC) effluent data from one similar facility (washing potatoes in Germany). They stated there was no influent data because the influent was highly variable. The single effluent test result for EC provided was 1,190 µmhos/cm. Tasteful Selections/VAM Water Tech stated that other potato processing facilities utilizing the proposed water recycling system did not experience significant salinity increases in the effluent. Staff modified Finding 46 of the tentative WDRs to include this additional information.

To monitor salinity concentrations and ensure the recycling water system does not cause significant increases to the Facility’s discharge to land, the tentative MRP includes the following monitoring: cold storage condensate monitoring (quarterly EC); recycled water treatment system monitoring (monthly EC and quarterly TDS and FDS); recycled water effluent monitoring (monthly EC and quarterly TDS); and pond effluent monitoring (monthly EC, TDS, and FDS). Furthermore, the Discharger will receive a Notice to Comply for the new Salinity Control Program in the next coming months and,

therefore, will be required to comply with the regionwide effort to address accumulating salinity in the Central Valley.

JO ANNE KIPPS –COMMENT #3: Assuming a total annual discharge of 2.66 million gallons (8.16 acre-feet) from the Facility, an annual hydraulic loading rates of only 0.2 inches to the wheat land application areas (LAAs) and 0.6 inches to the almond LAAs are extremely low and the logistics of achieving this low application rate at a uniform application rate need to be explained (e.g., through metered blending with fresh irrigation water).

RESPONSE: Land Application Area Specification E.2 of the tentative WDRS requires the following:

2. *Application of waste constituents to the LAA shall be at reasonable agronomic rates to preclude creation of a nuisance or unreasonable degradation of groundwater, considering crop, soil, climate and irrigation management system. The annual nutritive loading of the LAA, including nutritive value of organic and chemical fertilizers, and the wastewater, shall not exceed the annual crop demand.*

In response to this comment, Central Valley Water Board staff contacted the Discharger for clarity on how the discharge will be conveyed to the LAA and how mixing with irrigation will occur. The Discharger stated effluent and fresh irrigation water are mixed in the irrigation water pipe and applied to the LAA. This information was added to the Information Sheet.

JO ANNE KIPPS –COMMENT #4: The tentative WDRs should include more detail about how Form 200 was completed with respect to the California Environmental Quality Act (CEQA) for both construction of the Facility in 2014 and the current expansion project. Also, the tentative WDRs should describe staff's effort to contact Kern County to determine how it authorized the construction and operation of the Facility, and its expansion, in accordance with CEQA requirements. Ms. Kipps further states that based on her experience:

Typically, Kern County does not undertake discretionary approvals under CEQA for the construction and operation of food processing facilities provided that they are sited in areas zoned for such use.... [It] is unreasonable for the Regional Board to assume lead agency status to undertake an environmental review of the entire Facility when it is only responsible for regulating its discharges of waste to land. The tentative Order should disclose this conundrum to support its citing of section 15301 as the basis for exempting it from CEQA. And, it should summarize the regulatory requirements imposed to ensure the discharge will not have any significant effects on the environment.

RESPONSE: The original Report of Waste Discharge (RWD) and Form 200, received on 20 June 2014, did not state who the lead agency was. The revised Form 200 submitted on 29 August 2014 stated the Central Valley Water Board as the lead agency. The Form 200 submitted on 5 September 2019 also listed the Central Valley Water Board as the lead agency. As part of drafting the tentative WDRs, staff has repeatedly contacted Kern County to determine what environmental review was

completed to satisfy CEQA. In an email dated 14 October 2020, Lorelei Oviatt, Director of the Kern County Planning and Natural Resources Department, stated the facility is in an area zoned for agricultural processing operations. She stated that Kern County determined both the original (2014) facility and the 2019-20 expansion satisfied the requirements and standards for an agricultural processing facility in a location zoned for such activity. Consequently, Kern County determined the construction and operation of the original and expanded facility to be ministerial projects exempt from the requirements of CEQA (California Code of Regulations [CCR], title 14, section 15268).

Central Valley Water Board staff concurs with Ms. Kipps' statement that the Central Valley Water Board does not need to act as lead agency for purposes of CEQA. The Facility is currently in operation and discharges wastewater to land. The tentative WDRs do not authorize an increase in discharge of wastewater to land. In fact, it significantly reduces the volume of discharge that may occur from the Facility. The tentative WDRs place additional requirements for the continued operation of the Facility to ensure the protection of waters of the state. Therefore, staff contends that issuance of the tentative WDRs is exempt from the provisions of CEQA in accordance with CCR, title 14, section 15301. Finding 51 of the revised tentative WDRs (shown below) has been revised to reflect this information and reads as follows:

51. The Facility has been in operation since 2014. Kern County determined that the construction of the Facility and the 2019-2020 modifications did not require any permits or discretionary actions from the County since the projects satisfied the requirements and standards for an agricultural processing facility in a location zoned for such activity. Therefore, both the 2014 original construction of the Facility and the 2019-2020 modifications required only ministerial approvals under the County's General Plan. Due to resource constraints, the Central Valley Water Board only began its environmental review of the Facility, and its potential to cause significant effects on the environment, following the 2019 submittal of an Addendum to the 2014 Report of Waste Discharge. These WDRs ensure that the operation of the Facility will not have any significant effects on the environment, do not authorize an increase in the Facility's discharge to land from what was proposed in the 2014 RWD, and prohibit pollution of groundwater. As such, the action of prescribing these WDRs to this existing facility is exempt from the requirements of the California Environmental Quality Act in accordance with the California Code of Regulations, title 14, section 15301, which exempts the "operation, repair, maintenance, [and] permitting ... of existing public or private structures, facilities, mechanical equipment, or topographical features" from environmental review.

Finding 47 of the revised tentative WDRs lists out best practicable treatments and controls (BPTC) that the Discharger has, or will implement, as required by the tentative WDRs, to ensure that the Facility's discharge will not have significant effects on the environment (i.e., cause significant groundwater degradation). Furthermore, the tentative MRP establishes significant water quality monitoring of the influent, the recycled water effluent, the wastewater storage pond, the wastewater storage pond

effluent, and the stormwater basin to help ensure the Facility's discharge complies with the requirements specified in the tentative WDRs.

JO ANNE KIPPS –COMMENT #5: With regards to CEQA, the tentative WDRs (Finding 51) states, in part, the action of adopting the tentative WDRs may also be considered exempt from CEQA since it is an action by a regulatory agency for the protection of the environment (CCR, title 14, section 15308.). Title 14, section 15308 defines this exemption class as consisting of "*minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes.*" These examples are not similar to the environmental impacts associated with the discharge of waste by an industrial food processing facility.

RESPONSE: The reference to section CCR, title 14, section 15308 has been removed.

JO ANNE KIPPS –COMMENT #6: It is unclear if the four 40-foot deep gravel-filled dry wells mentioned in Finding 11 were constructed. Finding 11 of the tentative WDRs should be revised to provide an as-built description of the stormwater basin. Furthermore, Finding 11 of the tentative WDRs should be revised to refer to the specific Report of Waste Discharge submittal(s) as the factual basis supporting the capacity determination of the stormwater basin

RESPONSE: Staff contacted Swanson Engineering, Inc. (Swanson Engineering), the engineering company that designed the stormwater basin, to get confirmation on the construction specifications of the stormwater pond. In a 2 November 2020 phone conversation, Swanson Engineering confirmed the construction details for the stormwater basin. The stormwater basin was designed and constructed with the following specifications: water depth capacity of eight feet, length of 490 feet, width of 120 feet, and approximately a total storage volume of 2.66 million gallons. Staff also confirmed with Swanson Engineering that the four 40-foot dry wells mentioned in the original Report of Waste Discharge were installed in the pond. Finding 11 of the tentative WDRs was revised to include this information.

JO ANNE KIPPS –COMMENT #7: Aerial photographs from Google Earth (6/12/2017, 9/19/2017, and 8/30/2018) show water present in the stormwater basin in months with no or negligible rainfall. Based on available information, storm water should infiltrate by summer. Furthermore, the aerial images show the water as a bright green color, likely indicating surface algae blooms. This suggests that water discharged to the stormwater basin contains nitrogen in concentrations that could pose a threat to groundwater. Therefore, "the tentative MRP should include requirements for stormwater basin monitoring for nitrogen forms, salinity (EC), freeboard, and presence of algae... [and] the tentative Order should also include a reopener to impose discharge requirements for the stormwater basin discharge should monitoring data indicate it may threaten to violate groundwater limitations."

RESPONSE: During a 5 June 2019 Central Valley Water Board staff inspection of the Facility, staff observed a pipeline connecting the lined onsite wastewater storage pond and the stormwater basin. Central Valley Water Board staff inquired about the purpose of the pipeline connection, but, at the time, the onsite representative could not provide

any. In response to the September 2019 inspection report, Tasteful Selections stated the pipeline had been removed and confirmed that the stormwater basin would not be used for the discharge of process wastewater. To monitor the stormwater pond quality, the tentative MRP has been revised to include a section for stormwater basin monitoring. The new Stormwater Basin Monitoring Section (Section F) is included below in red. In addition, details of staff's observation of a pipeline connecting the ponds and the subsequent removal have been added to the Information Sheet.

In the reopener section at the end of the Information Sheet, a statement was added that if the stormwater basin monitoring data (or other evidence) show water in the storm water basin could threaten to violate groundwater quality limitations, waste discharge requirements may be imposed.

F. STORMWATER BASIN MONITORING (SWB-001)

The Discharger shall monitor the stormwater basin at Monitoring Location SWB-001 when water is present. If the basin is dry the monitoring report shall so state. Samples shall be collected opposite the basin inlet at a depth of one foot and freeboard shall be measured to the nearest 0.1 foot vertically from the surface of the water to the lowest elevation of the berm. Sampling and monitoring will be conducted from a location that will provide a representative sample (i.e., opposite the inlet to the basin).

Permanent markers (e.g., staff gages) shall be placed in the basin. The markers shall have calibrations indicating water level at the design capacity and available operational freeboard. Freeboard shall be measured vertically from the water surface to the lowest elevation of the basin berm (or spillway/overflow pipe invert) and shall be measured to the nearest 0.10 feet. Monitoring shall include, at a minimum, the parameters and constituents specified in Table 7 below:

Table 7 -Stormwater Basin Monitoring (SWB-001)

<u>Constituent/Parameter</u>	<u>Units</u>	<u>Sample Type</u>	<u>Monitoring</u>
<u>Freeboard</u>	<u>Feet (± 0.1)</u>	<u>Measurement</u>	<u>1/Week</u>
<u>pH</u>	<u>s.u.</u>	<u>Grab</u>	<u>1/Week</u>
<u>DO</u>	<u>mg/L</u>	<u>Grab</u>	<u>1/Month</u>
<u>EC</u>	<u>μmhos/cm</u>	<u>Grab</u>	<u>1/Quarter</u>
<u>Total Nitrogen</u>	<u>mg/L</u>	<u>Grab</u>	<u>1/Quarter</u>

In addition, the Discharger shall inspect the condition of the basin once per week and document visual observations. Notations shall include observations of:

1. Presence of odors or nuisance conditions, and

2. Accumulations of dead algae, vegetation, scum, or debris in the basin.

JO ANNE KIPPS –COMMENT #8: Finding 10 of the tentative WDRs states that the Facility’s domestic wastewater is “reportedly discharged to a septic system regulated by Kern County Environmental Health.” The use of “reportedly” suggests that there is no direct evidence that Kern County regulates the Facility’s domestic wastewater discharge. Furthermore, since the tentative WDRs (Finding 49) state the Facility employs approximately 1,063 people, the domestic wastewater discharge from the Facility would, on average, should be 13,800 gallons per day (assuming 13 gallons per day per employee) and could potentially unreasonably degrade groundwater if not properly regulated. Central Valley Water Board staff should confirm that the County regulates the Facility’s domestic wastewater discharge and, if so, Finding 10 should be revised to delete the word “reportedly.” Also Attachment A – Site Map, should be revised to depict the location of the Facility’s septic tank(s) and leachfield(s).

RESPONSE: Staff contacted Kern County and confirmed there are two onsite sewage treatment systems at the Facility regulated by the County. Staff also double-checked the number of employees working at the Tasteful Selections Arvin Facility with the Discharger. Tasteful Selections stated there are approximately 600 employees who actually physically work at the Facility, rather than the 1,063 stated in the tentative WDRs. Finding 49 of the tentative WDRs was revised to indicate the number of employees is 600. Accordingly, at this time it is not necessary for the Discharger to apply for waste discharge requirements for the Facility’s domestic wastewater discharge since it is regulated by the County’s Local Agency Management Program. The general location of the septic systems was added to Attachment A, and the word “reportedly” was removed from Finding 10 of the tentative WDRs.

JO ANNE KIPPS –COMMENT #9: Attachment A of tentative WDRs should be revised to identify the pond that receives stormwater from the Facility as “stormwater basin” to be consistent with the rest of the tentative WDRs.

RESPONSE: Attachment A was revised.

JO ANNE KIPPS –COMMENT #10: Finding 18 of the tentative WDRs states, in part, that “[t]he LAA’s crops and APNs are subject to change provided that the Discharger demonstrates the change is in compliance with all conditions and requirements specified in the WDRs.” If the Discharger wishes to change the location of discharge, the Discharger must file a new Report of Waste Discharge within 120 days if the land application areas change.

RESPONSE: Staff believes the commenter meant 140 days pursuant to California Water Code section 13264. Nevertheless, the sentence stating the LAA’s crops and Assessor Parcel Numbers were subject to change in Finding 18 has been removed from the revised tentative WDRS.

JO ANNE KIPPS –COMMENT #11: The tentative WDRs do not identify the threat and complexity rating for the Facility for purposes of California Code of Regulations, title 23,

section 2200. Based on the information presented in the tentative WDRs, the Facility should be assigned a “3B.”

RESPONSE: The tentative WDRs assign the threat and complexity rating of “2B” in Finding 54. However, staff has revised the tentative WDRs to assign a “3B” threat and complexity rating for the Facility.