

# ***APPENDIX N***

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*EPA CORRESPONDENCE*



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

received  
A24 (e)

In reply, refer to WTR-5

Mr. Patrick O'Mallan  
Bureau of Indian Affairs  
Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825

JUL 22 2010

Re: Lytton Rancheria Environmental Assessment

Dear Mr. O'Mallan:

Thank you for providing EPA with a copy of the Environmental Assessment (EA) prepared to support an application from the Lytton Rancheria of California for land to be placed into federal trust for a proposed development in Sonoma County, California.

As you are aware, EPA is the regulatory authority under the Clean Water Act for any discharge from a point source to a Water of the U. S. occurring on Tribal Trust Lands in California. Several of the alternatives under consideration for the development would require authorization through a National Pollutant Discharge Elimination System (NPDES) permit. EPA Region 9 would be responsible for issuing an NPDES permit to the Tribe for the discharge of treated wastewater.

EPA reviewed the EA but did not submit formal comments during the comment period. EPA believes the EA provides an adequate assessment of the alternatives and impacts. EPA toured the area with the Tribe's consultants in early July 2010 and believes it would be helpful if EPA shared its initial perspective of the proposed alternatives. Since EPA has not yet received a permit application from the Tribe, we cannot fully assess permit implications at this time, although Appendix B to the EA provides a detailed feasibility study for the wastewater treatment alternatives.

The EA includes several alternatives for the treatment and disposal of domestic wastewater to be generated by the project. Any alternative which provides on-site treatment and discharge to the Russian River or its tributaries would require an NPDES permit from EPA prior to discharge. EPA agrees with the EA's assessment that discharge to the roadside drainage (discharge Option 1) and /or discharge to the unnamed tributary of Mark West Creek (discharge Option 2) would require an NPDES permit.


EPA would be responsible for issuing a permit which ensures that the discharge meets water quality standards for the State of California at the point where the discharge enters state

waters, as established in the Water Quality Plan for the North Coast Region ("Basin Plan"). The Basin Plan includes a prohibition on the discharge of treated domestic wastewater to the Russian River or its tributaries from May 15 to September 30. Additionally, EPA must ensure that any discharge is in compliance with the provisions of 40 CFR §122.4(i), which prohibits the issuance of a permit to a new discharger if the discharge from its construction or operation will cause or contribute to the violation of water quality standards. As noted in the EA, the Russian River is listed as impaired for temperature and sediment/siltation although no Total Maximum Daily Loads (TMDLs) have been developed for the waterbody. As mentioned earlier, EPA has not yet received the permit application; and therefore, EPA cannot predetermine the conditions that would allow EPA to issue a discharge permit. If EPA receives a permit application from the Tribe, EPA will at that time evaluate the proposed discharge and assess its compliance with all Clean Water Act requirements, including compliance with the water quality standards of the Basin Plan at the Tribe's boundary. EPA understands the Tribe is preparing a characterization study of the waterbodies in the project area. EPA believes this characterization study will be helpful in our assessment of regulatory requirements, and encourages the Tribe to complete this study prior to finalizing the EA.

Additionally, based on the tour and our understanding of the alternatives, EPA would encourage the Tribe to continue discussions with the Town of Windsor to connect to the existing wastewater treatment plant.

We would be happy to discuss the complexities of the permitting process as you work to prepare the final EA and prepare responses to public comments received during the comment period. Please feel free to call John Tinger of my staff at (415) 972-3518 or [Tinger.John@epa.gov](mailto:Tinger.John@epa.gov) if you have any questions.

Sincerely,

  
for David W. Smith, Manager  
NPDES Permits Office

CC:  
The Honorable Lynn Woolsey  
The Honorable Mike Thompson  
Chairperson, Lytton Rancheria  
Analytical Environmental Services