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

June 24, 2014

Mr. Bruce Young
Deputy Public Works Director
City of Eureka
531 K Street
Eureka, CA 95501-1146

Re: City of Eureka Report of Waste Discharge for Land Application of Biosolids

Dear Mr. Young:

We understand that on March 25, 2013 the City of Eureka submitted a report of waste discharge (ROWD) for land application of municipal biosolids from the City's Elk River Wastewater Treatment Plant on two City-owned parcels of land that are collectively known as Parcel M. Given the characteristics of the proposed site discussed below, we cannot issue an NPDES permit for the proposed activity.

In the April 18, 2013 public-notice of the proposed project, the U.S. Army Corps of Engineers provided a preliminary jurisdictional delineation for Parcel M, characterizing the site as seasonally-flooded wetlands. Federal biosolids regulations at 40 CFR 503.14(b) state: "Bulk sewage sludge shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk sewage sludge enters a wetland or other waters of the United States, as defined in 40 CFR 122.2, except as provided in a permit issued pursuant to section 402 or 404 of the CWA."

Thus, an NPDES permit would be required in order to land apply biosolids to Parcel M. In order to issue an NPDES permit, the permitting authority must include requirements to protect water quality, including consideration and implementation of applicable water quality standards, policies, and procedures. Based on our reviews of information submitted by the City and discussions with the Regional Water Board, we conclude it would not be possible to issue a permit that would ensure that applicable water quality standards are met in both the jurisdictional wetlands present at Parcel M and in the Elk River and Humboldt Bay, located immediately adjacent to the proposed land application site.

The City maintains biosolids would be applied at Parcel M only when the site is completely dry. While we recognize the wetlands present on Parcel M are seasonal in nature, it would be impossible to ensure that the site remains dry throughout the period in which biosolids are proposed to be applied. This is true both because rainfall is fairly common in this Region during the summer months and because groundwater present year round can occur at very shallow depths at the site. As a result, we cannot conclude that the water quality of seasonal wetlands present on Parcel M can be protected if an NPDES permit authorizing discharge of biosolids at the site were issued.

We also cannot issue a permit that ensures biosolids discharges to Parcel M would not result in exceedances of water quality standards applicable to adjacent surface waters. Parcel M is immediately adjacent to the Elk River and Humboldt Bay and is crossed by constructed ditches to drain the site. The City indicated that a tide gate at the site keeps tidal waters from inundating the site and allows rain water to leave the site and discharge to the Elk River. Discharges from the site to the Elk River through this tidal gate following rainfall events or through subsurface hydrologic connections between the site and the Elk River could occur, and we cannot be sure those discharges would not cause or contribute to exceedances of applicable water quality standards in the River.

In addition, the proposed setback provisions do not meet federal biosolids management requirements. The City proposed a setback of only 5-feet, which does not meet federal biosolids regulations. 40 CFR 503.14(c) states, "Bulk sewage sludge shall not be applied to agricultural land, forest, or a reclamation site that is 10 meters or less from waters of the United States, as defined in 40 CFR 122.2, unless otherwise specified by the permitting authority."

Based on the site characteristics and the proposed setback, it is likely that biosolids applied at the site may be washed into Humboldt Bay; a discharge prohibited by Chapter III of the State's *Water Quality Control Policy for the Enclosed Bays and Estuaries of California*, as adopted by Resolution No. 95-84, 1995, which states: "The discharge of municipal and industrial waste sludge and untreated sludge digester supernatant, centrate, or filtrate to enclosed bays and estuaries shall be prohibited."

Also, all permitted discharges must meet federal and State antidegradation requirements, which require high quality waters to be maintained unless the lowering of water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing this degradation, water quality adequate to protect existing uses shall be fully maintained and the highest statutory and regulatory requirements for all new and existing point sources shall be achieved (40 CFR 131.12 and State Water Resources Control Board Resolution 68-16, "*Statement of Policy with Respect to Maintaining High Quality of Waters in California*"). It would be difficult to demonstrate that biosolids discharges to Parcel M would be necessary.

As the City has not and likely cannot demonstrate there will be no discharge of biosolids to jurisdictional wetlands present at the site or to Elk River and Humboldt Bay, an NPDES permit cannot be issued. We strongly encourage the City to seek alternatives to the proposed site.

Sincerely,

David Smith, Manager
NPDES Permits Office (WTR-5)