

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition of
the Department of Fish and Game for
Review of Addendum No. 1 to
Resolution No. 63-R14 Adopted by
the California Regional Water Quality
Control Board, San Diego Region

Order No. WQ 74-5

BY THE BOARD:

On May 23, 1973 the California Department of Fish and Game (Fish and Game) submitted a petition to the State Water Resources Control Board (State Board) requesting review of the action of the California Regional Water Quality Control Board, San Diego Region (Regional Board) in adopting Addendum No. 1 to Resolution No. 63-R14. Resolution 63-R14 prescribes waste discharge requirements for the Lakeside Sanitation District (Lakeside). Addendum No. 1 was adopted by the Regional Board on April 23, 1973, and amends requirement No. 6 of Resolution 63-R14 to provide:

- "6. Effluent percolated into the ground waters of the San Diego River Basin shall not:
- (A) Cause the presence of coliform organisms in waters pumped from the basin;
 - (B) Cause the occurrence of objectionable tastes and odors in waters pumped from the basin;
 - (C) Cause waters pumped from the basin to contain synthetic detergent concentrations in excess of 0.5 parts per million;
 - (D) Cause a surface flow or standing water in the San Diego River channel;

- (E) Cause any plant growth in the San Diego River channel as a result of nutrients in the discharge;
- (F) Cause any breeding of mosquitos, flies, or other public health vectors anywhere in the San Diego River Basin;
- (G) Cause any odors, unsightliness, septicity or other nuisances anywhere in the San Diego River Basin;"

CONTENTION AND FINDINGS

Fish and Game contends that Addendum No. 1 prohibits any discharge of wastewater to the San Diego River irrespective of the level of treatment it has received or the quality of the effluent. The basis of Fish and Game's contention is apparently paragraph 6(D) of the Addendum. Fish and Game further contends that an appropriately treated discharge by Lakeside would protect the designated beneficial use of fish and wildlife and should be permitted provided the protection of public health and other beneficial uses is assured.

Findings: Addendum No. 1 to Resolution 63-R14 does state, in paragraph 6(D), that effluent percolated into the ground waters of the San Diego River Basin shall not "cause a surface flow or standing water in the San Diego River channel". Two provisions of the applicable water quality control plan¹ are cited in the Addendum as the basis for its adoption. These provisions state:

"Discharge of treated or untreated sewage or industrial waste water, exclusive of cooling water or other waters which are chemically unchanged, to a water course for purposes of disposal is prohibited."

1. The water quality control plan referred to herein is the Interim Water Quality Control Plan for the San Diego Basin, June 1971, as amended.

"Discharging of treated or untreated sewage or industrial waste in such manner or volume as to cause sustained surface flow or ponding on lands not owned or under the control of the discharger is prohibited." (Page 37. Emphasis supplied).

We do not regard the latter provision as being an appropriate basis for the limitation imposed in paragraph 6(D). In effect we construe this provision to require that sewage effluent and industrial waste disposed of in land operations be retained on site without surface overflow, or ponding as a result of that overflow, on adjacent land.

On the other hand, the former provision is an appropriate basis for adoption by the Regional Board of paragraph 6(D). At present Lakeside's discharge is a discharge of treated sewage via percolation to a watercourse for the primary purpose of disposal. As such, it is clearly prohibited by the water quality control plan.

We find that the adoption of Addendum 1, including paragraph 6(D), was appropriate and proper. However, we feel that we should point out for the benefit of Lakeside and Fish and Game that the applicable prohibition in the water quality control plan does not absolutely prohibit all discharge of sewage, whether directly or by percolation, into watercourses. The prohibition involved refers to discharge "to a watercourse for purposes of disposal". Had the Regional Board actually intended an absolute prohibition of all discharges regardless of the purpose involved, the prohibition would have simply stated that "discharge of treated or untreated sewage...to a watercourse is prohibited".

Obviously the insertion of the phrase "for purposes of disposal" was meant to qualify the absolute prohibition which would otherwise have been imposed.

In our view, the prohibition means what it says. If the primary purpose of the discharge to a watercourse is disposal, the discharge is prohibited. However, it is also true that appropriately treated wastewater may be discharged for the actual purpose of protection and even enhancement of beneficial uses. Under the latter circumstance, the Regional Board does have jurisdiction to permit discharge to a watercourse subject to suitable requirements. This interpretation is supported by other provisions of the water quality control plan, including the following:

"The development of this water quality control plan is directed towards achieving the following goals...

1. Protect and enhance all basin waters, surface and underground, fresh and saline, for all present and anticipated beneficial uses including aquatic environmental values.

* * * *

4. Maximize the use of municipal and industrial waste waters as part of an integrated system of freshwater supplies to achieve maximum benefit of freshwater resources."

If Lakeside believes that it can in fact treat the wastewater involved to such an extent that any discharge reaching the San Diego River would actually be for the purpose of protection and enhancement of beneficial uses, Lakeside should file the necessary report of proposed discharge pursuant to Water Code Section 13376. Upon such action by Lakeside, the question of establishment of water reclamation criteria and requirements

pursuant to Water Code, Division 7, Chapter 6, should be considered. From the record before us, it is apparent that reclamation requirements, in addition to other areas of concern, must be such that any discharge is compatible with public health requirements as well as water quality concerns.

We do not mean to indicate by the foregoing discussion that, under the circumstances involved in this case, appropriate reclamation criteria and requirements can be developed which will both protect and enhance beneficial uses and, at the same time, assure protection of public health. Such an accommodation may not be possible. Even if possible, the requirements may be such that compliance with requirements would be economically infeasible or impossible. Whether such criteria and requirements can be developed and practically implemented are matters to be initially determined by Lakeside and the Regional Board in conjunction with the State Department of Health, Fish and Game, and other concerned persons and agencies.

It is also our feeling that the need for the prohibition as it is presently worded is questionable and therefore the Regional Board should carefully investigate the need for such a prohibition prior to adoption of a revised water quality control plan for the subject area.

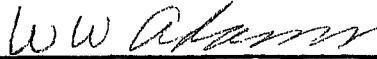
CONCLUSION AND ORDER

After review of the record, and consideration of the contention of Fish and Game, the State Board concludes that the action of the Regional Board in adopting Addendum 1 to Resolution No. 63-R14 was appropriate and proper.

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IT IS HEREBY ORDERED that the petition of the California Department of Fish and Game be, and it is, denied.

Dated: April 18, 1974



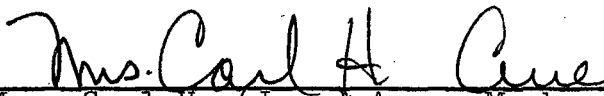
W. W. Adams, Chairman



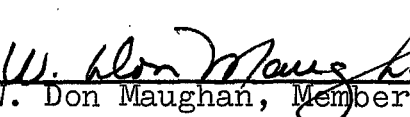
Ronald B. Robie, Vice Chairman

ABSENT

Roy E. Dodson, Member



Mrs. Carl H. (Jean) Auer, Member



W. Don Maughan, Member