

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition of)
)
DR. VIRGIE SHORE, DR. FRED AND IVAL)
CRUTCHER, DR. EDWIN AND FRANCES BYER,)
DR. WILLIAM AND BERNICE EASTMAN, PEGGY)
KROTZ, DELORES PILUSO AND STANLEY AND)
LINDA KROTZ)
)
For Review of Order No. 86-4 of the)
California Regional Water Quality)
Control Board, North Coast Region.)
Our File No. A-423.)
_____)

ORDER NO. WQ 86- 10

BY THE BOARD:

On January 30, 1986, the California Regional Water Quality Control Board, North Coast Region (Regional Board) adopted waste discharge requirements (requirements) which served as a National Pollutant Discharge Elimination System (NPDES) permit in Order No. 86-4. The requirements regulate discharges from a proposed wastewater treatment facility to be operated by Mendocino County Water Works District No. 2 (discharger).

On February 28, 1986, the State Water Resources Control Board (State Board) received a petition from the above-captioned persons (petitioners) seeking review of the requirements. The petitioners are all nearby landowners who claim that discharges from the proposed facility will endanger public health.

I. BACKGROUND

The discharger currently owns and operates a wastewater collection, treatment and disposal system for the community of Anchor Bay. The treatment

facility consists of an 87,000 gallon septic tank which discharges undisinfectated effluent over a cliff into the Pacific Ocean. The current discharge poses a threat to public health, and the community of Anchor Bay has been subject to a moratorium on new construction for the past fourteen years.

The discharger has proposed construction of a wastewater treatment facility which will include an aeration pond, disinfection and a storage/percolation pond, with disposal by irrigation in the summer and discharge to the ocean in the winter. The facility will have a capacity of 19,600 gallons per day (gpd) average dry weather flow and 44,300 gpd peak wet weather flow.

The discharger is planning to purchase property on Getchell Gulch Road for the facility. While it has not yet developed final plans for the project, it is considering spray irrigation on the purchased property during the summer months and discharge either through a vertical shaft to a sea cave or to a local surface drainage tributary during the winter.

The petitioners are a group of landowners along Getchell Gulch Road. The road is the only means of access to their properties. They are concerned that spray irrigation from the proposed facility will pose a health threat. They have also raised the concerns of impacts to public health posed by the proposed discharge to the ocean and to Quinliven Creek (a tributary thereto). Further issues raised concern the environmental analysis for the project and the record before the Regional Board.

II. CONTENTIONS AND FINDINGS

1. Contention: The petitioners claim that the discharge will pose a threat to public health, both by irrigation and by discharge to surface

2.

waters. Specifically, the petitioners claim that viruses will come into contact with humans, as will legionella bacteria. The petitioners also contend that the requirements contain insufficient monitoring provisions, and that the Regional Board did not seek advice from the Department of Health Services before adopting the requirements.

Finding: The requirements prohibit the discharge of waste to land which is not controlled by the discharger. Therefore, the discharger may not spray effluent directly onto Getchell Gulch Road or property owned by the petitioners. In addition, the discharger is required to submit engineering plans and specifications for the facility, and the Regional Board has agreed to seek review of these reports by the Department of Health Services. Finally, the discharger is prohibited from creating a nuisance or a pollution. There is no basis for finding that the sprayed effluent will reach lands controlled or used by the petitioners.¹

The petitioners' contention is not only that effluent may be sprayed directly on Getchell Gulch Road, but that during spray irrigation some bacteria and viruses will travel long distances and survive for many months and will therefore pose a threat to public health. While aerosols² containing

¹ The petitioners also claim that the Regional Board did not include requirements regarding installation of facilities for collection and return of surface runoff, although these had been mentioned in a letter from the Regional Board. (Letter from Robert L. Tancreto to Vic Holanda, dated February 27, 1985.) The Regional Board is prohibited by Water Code Section 13360 from specifying design of facilities in waste discharge requirements. The letter apparently referred to a review of the design which will be conducted by State Board staff as part of the Clean Water Grant for the project.

² Aerosols are the tiny, wind-borne droplets of effluent which may be dispersed in the atmosphere. Aerosols account for 0.1 to 2 percent of the sprayed effluent.

is clear from the record that the Department was consulted before the requirements were adopted and that the Department will review the final plans and specifications.

2. Contentions: The petitioners raise two contentions regarding the environmental review of this project. First, they claim that an Environmental Impact Report (EIR) contained a finding that land disposal was infeasible because soil conditions were unsuitable. Second, the petitioners claim that there was not an adequate environmental analysis.

Finding: In 1977, the discharger prepared a supplemental EIR which considered a number of alternatives for replacement of the existing wastewater treatment facilities.³ One of the alternatives discussed was for year-round land disposal. The report stated that the land surfaces "limit the efficiency" of spray irrigation and that climatic conditions "severely limit the viability" of spray irrigation.⁴ These statements, taken from an evaluation of a year-round spray alternative, do not appear to reflect negatively on the current proposal for a summer spray irrigation project.

The petitioners also make a general claim that insufficient environmental analysis was performed. In addition to an EIR and two supplements, which studied many potential approaches to the problem of wastewater treatment and disposal at Anchor Bay, a negative declaration was prepared by the discharger for the project which is the subject of these

³ Harris and Associates, Wastewater Facilities Plan and Environmental Impact Report, Second Supplement, June 1977.

⁴ Id., p. II-8.

requirements.⁵ As a responsible agency for purposes of environmental review, the Regional Board is required to presume the adequacy of the negative declaration. (Title 14, California Administrative Code, Section 15096(e).)

3. Contention: The petitioners claim that a letter from one of the petitioners was not properly entered into the record.

Finding: The petitioners claim that petitioner Eastman could not attend the meeting and instead a request was made that a letter from him be read to the Board, but that the letter was not read. The petition did not contain the letter or any details of the request. The Regional Board staff claims it never received a letter from Dr. Eastman, and the transcript does not include any request regarding such a letter. In any event, the petitioners who attended the meeting were allowed extensive testimony. There is no showing of any abuse by the Regional Board.

III. CONCLUSIONS

The waste discharge requirements adopted by the Regional Board are appropriate and proper. The petitioners' contentions that the discharge will threaten public health, that an adequate environmental analysis was not performed, and that the record omitted a necessary document are unsubstantiated.

⁵ While the requirements make no mention of the negative declaration, it is the environmental document prepared by the County in order to comply with the California Environmental Quality Act. (Public Resources Code Section 21000 et seq.)

IV. ORDER

IT IS HEREBY ORDERED THAT the petition is denied.

CERTIFICATION

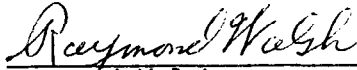
The undersigned, Executive Director of the State Water Resources Control Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 19, 1986.

Aye: W. Don Maughan
Darlene E. Ruiz
E. H. Finster
Eliseo M. Samaniego
Danny Walsh

No: None

Absent: None

Abstain: None



Raymond Walsh
Interim Executive Director

12



bacteria and viruses may travel far from the irrigated site, there is no recognized, substantial health risk associated with spray irrigation of disinfected sewage effluent. A determination that spray irrigation of disinfected wastewater is an appropriate disposal method, if properly controlled, has already been made by the Department of Health Services in adopting regulations setting criteria for wastewater reclamation. (Title 22, California Administrative Code, Chapter 3, Section 60301 et seq.) The requirements adopted by the Regional Board have incorporated the criteria established for landscape irrigation with disinfected wastewater. (Requirements, Effluent Limitation B.1.; see Title 22, California Administrative Code, Section 60313.)

The State Board has adopted a Water Quality Control Plan for Ocean Waters of California (Ocean Plan) which established effluent quality requirements to govern disposal of waste in coastal waters. The State Board conducted extensive review and analysis in order to establish requirements which would protect beneficial uses. The requirements adopted by the Regional Board are more stringent than those included in the Ocean Plan and are therefore appropriate and proper.

The monitoring requirements adopted by the Regional Board follow the standard engineering and public health practice of monitoring for total coliform in the discharge. The petitioners claim that this monitoring is insufficient to detect the presence of all pathogens in the effluent. Monitoring for total coliform is acceptable to the Department of Health Services (Title 22, California Administrative Code, Section 60321) and there has been no showing that this is not an adequate method for determining the presence of pathogens.

While the Regional Board is not under an affirmative duty to seek advice from the Department of Health Services before adopting requirements, it