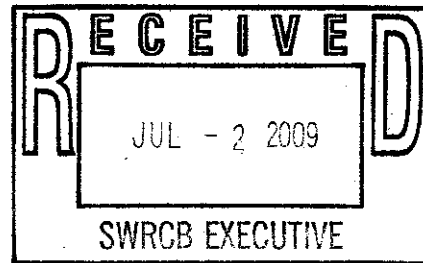




July 2, 2009



Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
P.O. Box 100
Sacramento CA 95812-0100

Re: Proposed Order WQ 2009-
SWRCB/OCC File A-1886

Dear Ms. Townsend:

Pacific Coast Producers hereby submits the following comments on the above referenced proposed order.

The Proposed Order contains findings that Title 27 applies to the application of cannery rinsewater, and that the reuse exemption does not apply to the city's land application to agricultural fields since, according to the Board, the water is "neither treated nor "salvaged from waste". The Proposed Order is not correct in its application of a reuse exemption.

As a preliminary issue, Title 27 has not historically been applied to cannery discharge, nor to land application sites. In recent years, the regulatory community has placed provisions of Title 27 into permits which govern cannery discharge, but those permits have always found the discharge to be provisionally exempt, and no discharge has, to date, been subject to the application of Title 27.

Application of Title 27 to the agricultural reuse of treated municipal effluent and industrial wastewater by the City of Lodi is unwarranted. California Water Code Subsection 20090(b) provides for an exemption from Title 27 of the discharge of wastewater to land if the following conditions are met:

- The applicable Regional Water Board has issued WDRs, reclamation requirements, or waived such issuance.
- The discharge is in compliance with the applicable water quality control plan, and
- The wastewater does not need to be managed as a hazardous waste.

All these requirements have been met at the City of Lodi. The Regional Board has required the City to submit both an influent characterization study for the industrial cannery water, and a loading rate study to determine if there is a potential impact to groundwater, which would violate the applicable water quality control plan. There is no finding of "impacts" to groundwater in the evidentiary record. The State Board should allow the Regional Board to analyze the results of these documents and studies submitted to the Regional Board prior to issuing any order, as some of the issues covered by the Proposed Order may be already determined and resolved.

Reuse under this exemption has a long and successful history in California. According to the California League of Food Processors Manual of Good Practice for Land Application of Food Processing/Rinse Water, Second Edition, completed in February of this year, overviews of the practice and case studies have been published from the 1940s to the present, illustrating the benefits of land application, when managed properly. There is no clear evidence in this matter which points to groundwater impacts relating to the cannery discharge.

Pacific Coast Producers hereby incorporates the comments provided by Brown and Caldwell, which are attached hereto and made a part hereof.

We ask that the Board dismiss the CSPA claim regarding the applicability of Title 27 to Lodi's irrigation reuse operations. We also ask that the Board dismiss the claim with regard to the claim that an adequate antidegradation analysis was performed. The Regional Board has adequately analyzed the available information and has required studies to confirm that groundwater degradation is not occurring.

Respectfully submitted,



Mona Shulman
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July 1, 2009

BROWN AND
CALDWELL

Ms. Mona Shulman
Corporate Counsel
Pacific Coast Producers
P.O. Box 1600
Lodi, California 95241-1600

1017-135528

Subject: Draft Order In the Matter of Own Motion Review of
City of Lodi Waste Discharge Requirements and Master Reclamation
Permit, Central Valley Region, SWRCB/OCC File A-1886

Dear Ms. Shulman:

As requested, we have reviewed the Draft Order and have found serious technical flaws and contradictions in some of the findings stated therein.

Technical Flaws

On page 16 in the Draft Order and in other places, the EC of water from well WSM-2 is used as the principal basis for the contention that groundwater EC has been impacted by the ponds. The technical basis for this concern by SWRCB staff is seriously flawed. Water from well WSM-2 has chloride concentrations much greater than the concentrations of chloride in the ponds, making it physically impossible that leakage from the ponds is the cause of the elevated salinity in monitoring well WSM-2.

On page 21, the Draft Order states that, "evidence in the record indicates that the releases of wastewater from the onsite storage ponds have caused the underlying groundwater to exceed the applicable Basin Plan nitrate and EC objectives". The evidence in the record in fact does not indicate this. According to the 2006 Groundwater Investigation Report, well WSM-7, which is most directly downgradient of the ponds, actually has the lowest average nitrate concentrations of the 5 wells near the ponds. Well WSM-7 also has the lowest EC of the wells in the vicinity of the ponds.

Claims on pages 14, 15, and 18 of the Draft Order that a distinctive groundwater mound exists in the vicinity of the ponds because of leakage from the ponds are not supported by the text or graphical evidence in the 2006 Groundwater Investigation Report. All three major east-west cross sections and the seasonal groundwater level contours in the 2006 report show highest groundwater elevations along a generally north-south trending slight water table ridge near the old peripheral canal channel, with a gently decreasing water table slope to Interstate-5, and then an increasingly steep slope in the water table towards the cone of depression to the east. Claims of a distinctive groundwater mound caused by the ponds are furthermore not supported by any

groundwater mounding calculations, modeling, or other methodology that would refute the 2006 Groundwater Investigation Report conclusions.

Categorical Contradictions

The findings go to great length to state that other than direct surface discharge of the treated municipal wastewater stream to the Delta, the wastewater sources and products at Lodi do not fall under any category of wastewater, treatment, or reuse, when in fact the correct categorizations according to authoritative reference sources would coincide with most of the exemption categories denied in the Draft Order.

On page 9, the Draft Order states that "ponds and field application are ... part of post-treatment discharge or disposal, rather than wastewater treatment." But a few lines later, the Draft Order claims that "ponds are not associated with the wastewater plant". The ponds must clearly be one or the other. Furthermore, denying that treatment is not occurring in the ponds or through the field application goes against authoritative references and the experience at hundreds of existing wastewater facilities. In fact, land treatment of wastewater is fully recognized by the USEPA, Water Education Foundation, and numerous other sources with published design manuals and guidelines. Land treatment for treatment of industrial wastewater, biosolids, and secondary municipal wastewater effluent is a widely accepted practice. It is interesting to note that the land treatment process is even mentioned later within the Draft Order on page 15, where "soil treatment of the percolating wastewater" is recognized as a real treatment process, contradicting the claim on page 9 to the contrary. Pond treatment is also fully accepted by USEPA and, in fact is the principal mode of treatment for numerous municipalities throughout the U.S. Therefore, the denial of the sewage treatment plant exemption as stated appears to be internally contradictory.

Furthermore on page 9, the Draft Order claims that because the wastewater components include industrial wastewater, stormwater, and biosolids, the mixture of these components cannot really be considered municipal wastewater. This ignores the fact that the vast majority of municipal wastewaters are throughout the country are composed of just those same domestic, industrial, and stormwater components.

Beginning in the last paragraph of page 9, the reuse exemption would most certainly appear to cover the land applied biosolids as a "use of materials...produced by waste treatment". The nitrogen components, which are particularly valuable to the farming operations on the site, are also claimed later in the Draft Order to be the cause of groundwater pollution. Either the biosolids are beneficially reused material or the plant nutrients in the biosolids are too inconsequential to be causing groundwater pollution. Denying both of these conditions appears to have no basis. Likewise, the water, organic matter, and nutrients in the industrial wastewater (which are predominantly from fruit processing) provide soil and agronomic benefits and are also "salvaged from wastes".

Regarding the reuse exemption, one can argue whether land application is treatment or reuse. Most authoritative references and the USEPA acknowledge both occur when the land is used for agricultural production. To argue that land application of wastewater to

Ms. Mona Shulman
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farm land provides neither treatment nor reuse as the Draft Order claims is ignoring both reality and decades of precedent.

Regarding the application of the soil amendment exemption, the claim in the Draft order that the soil amendment exemption does not apply because it contains "wastewater components such as...a considerable amount of non-nutritive salts" ignores that fact that all organic soil amendments contain considerable amounts of non-nutritive salts. In fact, the non-nutritive salts in manure are many times greater in concentration than those found in the industrial wastewater or biosolids.

The metal finishing wastes are accused of being the source of pollutants that cannot be treated by land application. The metal finishing wastes contribute only a tiny percentage of the industrial wastewater flow and are controlled by local limits at the source. Furthermore, soil provides excellent treatment of metals through adsorption and sequestration as documented thoroughly by the USEPA.


On page 20, the Draft Order claims that industrial wastewater exceeds water quality objectives for EC and TDS. In fact, the mineral salinity of the industrial wastewater is actually below secondary water quality objectives. The sugars and other non-mineral dissolved compounds in the industrial wastewater are biodegradable, and therefore are not a threat to groundwater quality.

Conclusion

Many of the technical conclusions in the Draft Order are based on speculation rather than an examination of the available data, resulting in an exaggeration of the risks to groundwater quality. Regarding the applicability of Title 27 categorical exemptions, the wastewater sources and products fall under several of the categorical exemptions from Title 27 at face value. Claims otherwise in the Draft Order appear to be internally contradictory and in opposition to USEPA guidelines and other authoritative references. The real issue at hand is whether the facilities at Lodi are being managed properly under their discharge permit. Applying Title 27 where it was not intended will provide no real benefit to the management of the facilities or to the environment.

Very truly yours,

BROWN AND CALDWELL,



Robert A. Beggs, P.E., Ph.D. (C46503)
Project Manager

RAB