

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

RESOLUTION NO. 78-14

POLICY ON DISCRETE SEWERAGE FACILITIES

- I. Whereas, on June 16, 1966, the Board adopted a policy statement, Resolution No. 768, with respect to sewerage in urbanizing areas of the region, and;
- II. Whereas, the policy has been followed by the Board and its staff in judging the acceptability of the use of septic tanks or small community systems since 1966, and;
- III. Whereas, this Regional Board finds:
  - A. The application of Resolution No. 768 has been difficult due to its indirect nature (it requests City and County government to act rather than stating the Regional Board will act).
  - B. There is a need for restatement of the Regional Board's policy to clearly set forth the actions which the Regional Board will take with respect to proposals for new discrete sewerage systems, as well as what it will request of local governments.
- IV. Whereas, this Regional Board has prepared a negative delcaration in accordance with the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) and the State guidelines, and the Board determines that there will be no substantial adverse change in the environment as a result of the project.
- V. Whereas, on September 20, 1977, October 18, 1977, December 20, 1977, April 18, 1978, and July 18, 1978, this Board held public hearings and heard and considered all comments pertaining to this matter, and;
- VI. Whereas, this Regional Board has determined that there are no state mandated local costs under Section 2231 of the Revenue and Taxation Code as a result of the foregoing regulation because such regulation is not an executive regulation by virtue of Section 2209 of the Revenue and Taxation Code, and;
- VII. Therefore, Be It Resolved that this Regional Board adopts the policies set forth in the attached document entitled "Policy on Discrete Sewerage Facilities" and rescinds this Board's Resolution No. 768 to become effective upon approval by the State Water Resources Control Board.

I, Fred H. Dierker, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on July 18, 1978.

FRED H. DIERKER  
Executive Officer

## POLICY ON DISCRETE SEWERAGE FACILITIES

### BACKGROUND

As the population of the Bay Area increases, demand for residential development increases. In many cases, residential development is occurring in close proximity to existing urban areas and within the service areas of existing municipal sewerage agencies. In an increasing number of instances, however, development is being proposed in outlying areas which cannot easily be served by existing sewerage agencies. In these instances discrete sewerage systems are being proposed (i.e. separate from existing sewerage systems). In many cases the legal and financial arrangements for the planning, design, operation and maintenance of these discrete sewerage systems are uncertain at the time the residential development is proposed.

On June 16, 1966 this Regional Board adopted a policy statement (Resolution 768) with respect to sewerage in urbanizing areas of the region. Resolution 768 contains the following request of City and County governments.

"BE IT FURTHER RESOLVED, that it is the policy of this Regional Board:

A. That City and County government is requested to:

1. Prohibit the use of septic tanks and leaching systems for sewage disposal:
  - a. For any subdivision of land which comes under the provisions of the Subdivision Map Act of California unless the subdivider clearly demonstrates to the satisfaction of the governing body having jurisdiction that the use of septic tanks will be in the best public interest and that the beneficial uses of water of the State will not be adversely affected; and
  - b. For any other area where minimum lot sizes and dwelling densities, meeting the approval of the appropriate health officer, have not been established by ordinance.
2. Prevent the development of any subdivision, trailer park, or similar development that will use its own community system for the disposal of sewage unless:
  - a. The subdivision, trailer park, or similar development is within a pre-existing governmental sewerage entity (city or district) that has authority to and has stated its intent to assume responsibility for the planning, construction, operation, and maintenance of the sewerage system; and
  - b. The governmental sewerage entity (city or district) has developed a master plan for sewerage which includes the subdivision, trailer park, or similar development;"

Resolution 768 does not set forth a course of action for the Regional Board to follow when proposals are made for discrete systems. Since the adoption of Resolution 768 both State and Federal law have been amended to strengthen the regulatory authority of the Board.

The Regional Board has determined that there is a need for restatement of its policy to clearly set forth the actions which the Regional Board will take with respect to proposals for new discrete sewerage systems. Definitions of certain terms used in this document are included at the end of the document.

### PRINCIPLES

This Regional Board is a State regulatory agency which has been given legislative authority and direction to protect the quality of the waters of the State. The Board's basic authority and responsibilities are set forth in the Porter-Cologne Water Quality Control Act. The Regional Board has no authority to regulate land use as a Responsible Agency under the California Environmental Quality Act (CEQA). This Regional Board has operated under the principle that regulation of land use is the responsibility of city and county governments. The policies which follow are based upon this principle.

This Regional Board will apply the following principles to all wastewater discharges:

1. The system must be designed, constructed, and installed so as to be capable of preventing pollution or contamination of the waters of the State or creating nuisance for the life of the development.
2. The system must be operated, maintained and monitored so as to continually prevent pollution or contamination of the waters of the State and the creation of a nuisance.
3. The responsibility for both of the above must be clearly and legally assumed by a public entity with the financial and legal capability to assure that the system provides protection to the quality of the waters of the State for the life of the development.

### POLICY

The policy of this Regional Board with respect to the use of new discrete sewerage systems is set forth below. The policy recognizes that there are certain actions which are best undertaken by local governments to minimize the potential for water quality problems resulting from the use of new discrete sewerage systems.

#### POLICY 1

It is the Policy of this Regional Board that city and county governments are requested:

1. Prohibit the use of new discrete sewerage systems where existing community sewerage systems are reasonably available. The determination of whether or not existing systems are reasonably available will be the responsibility of the local agency or agencies having jurisdiction over the project.

2. Prohibit the use of individual septic tank disposal systems for any subdivision of land unless the governing body having jurisdiction determines that the use of septic tanks will be in the best public interest and that the existing quality of the waters of the State will be maintained consistent with the State Water Resources Control Board's Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality Waters in California."
3. Assure that individual disposal systems are maintained to the satisfaction of the responsible Health Officer. This could be accomplished through establishment of special maintenance districts, by the amendment of existing ordinances assuring adequate maintenance documented through periodic inspections, or other alternatives as deemed appropriate by the local Health Officer.
4. Consider the cumulative impacts of individual disposal system discharges as a part of the approval process for development.

## POLICY 2

This Board will require a Report of Waste Discharge to be filed for all proposed waste discharges which involve the use of new community wastewater treatment and disposal systems. Before this Board will consider the Report of Waste Discharge to be complete, the following requirements must be met:

- A. A public entity must assume legal authority and responsibility for the planning, design, financing, construction, operation, and maintenance of the proposed wastewater treatment and disposal system. The Report of Waste Discharge must be submitted by the public entity.
- B. The Report of Waste Discharge must include the following:
  1. A final Environmental Impact Report or Negative Declaration covering the total project, unless categorically exempt, prepared and approved by the local lead agency pursuant to the California Environmental Quality Act of 1970 (as amended) and Chapter 3, Division 6, Title 14, of the California Administrative Code (as amended).
  2. Include operation, maintenance, revenue and contingency plans for the wastewater treatment and disposal facility or a commitment by the public entity to prepare such plans and submit them to the Regional Board at least sixty (60) days prior to the initiation of discharge. In the absence of a satisfactory report, the discharge will be prohibited.

**RATIONALE:** The filing of a Report of Waste Discharge is required by Section 13260 of the California Water Code. The requirement for a public entity to assume authority for the proposed treatment and disposal system is based upon State-wide experience with small community wastewater systems. In general, it has been the experience of this Regional Board and other Regional Boards throughout the State, that public entities are more capable of providing adequate resources to assure the proper planning, design, construction, operation, and maintenance of wastewater systems. With the establishment of a public entity, legal procedures and remedies are greatly simplified in the event of violation of Board Requirements. The California Environmental Quality Act of 1970 requires

that a final Environmental Impact Report or Negative Declaration (unless categorically exempt) be considered by this Regional Board prior to the adoption of waste discharge requirements. The preparation of this document should be the responsibility of the local agency responsible for approval of the project.

Operation and maintenance and revenue plans have been required for all new facilities constructed through the grant program. The development of these plans helps to assure proper operation and maintenance of a facility once it is constructed and future replacement of that facility. The development of these plans for all new facilities will help assure proper operation and maintenance and will aid the public entity in determining the appropriate level of funding and staffing for the operation and maintenance of the facilities. Contingency plans have been required from all dischargers pursuant to the Board's Resolution No. 74-10.

### POLICY 3

This Regional Board will pursue the following course of action with respect to the use of individual wastewater treatment and disposal systems.

- A. It will require assessments of the cumulative impact of discharges from individual wastewater treatment and disposal systems on water quality and public health where the density of systems is such that adverse impacts may occur. The Board will identify each area where such assessments are necessary and will adopt individual time schedules for the appropriate public entity to develop the required report. The Executive Officer is directed to work with local planning and health departments to:
  - 1. Identify areas within each County where the ultimate density of individual wastewater treatment and disposal systems is such that adverse impacts on water quality or public health might occur.
  - 2. Define the scope and time schedule for each cumulative impact assessment.
  - 3. Estimate assessment costs and identify potential sources of funding.
  
- B. It will periodically review its waivers of the reporting of waste discharge pursuant to Section 13269 of the California Water Code to determine if they should be continued. The criteria by which the Board will determine whether or not to continue the waivers will be the adequacy of local ordinances for the control of individual wastewater treatment and disposal systems and the actions of local agencies in implementing those ordinances.

This Board believes that adequate surveillance and maintenance of individual wastewater treatment and disposal systems is imperative. In the review of its waivers, the Board will look for provisions for adequate maintenance such as periodic inspections or establishment of maintenance districts and will also evaluate the response of local agencies to Policy 1 and Policy 3A.

This Board will adopt guidelines by which it will judge the adequacy of local ordinances for the control of the individual wastewater treatment and disposal systems.

- C. It will require a Report of Waste Discharge to be filed for all individual wastewater treatment and disposal systems which discharge to the surface of the land or to surface waters of the State.

**RATIONALE:** Individual treatment and disposal systems are an acceptable means of wastewater disposal in rural area. Septic tanks and leachfields have been the predominant types of individual systems. It has been the experience of this Board that water quality and public health problems can result when such systems are used inappropriately. Failure of septic tank systems may occur due to their design or the physical characteristics of the disposal site or failure may occur due to inadequate or improper construction, maintenance or operation of the system. Adequate local ordinances for the control of individual systems should help prevent the first cause of failure. In the absence of a governmental public entity that has assumed this responsibility, only proper maintenance and operation by the homeowner can prevent the second cause noted above. Homeowner maintenance and operation is generally inadequate. Periodic inspections by local agencies or the establishment of maintenance districts should assure proper operation and maintenance.

The use of proper design codes and good operation and maintenance practices will minimize the failure of individual systems. However even a properly functioning system will contribute nitrate nitrogen and TDS to groundwaters. High nitrate or TDS concentrations will impair the beneficial uses of groundwater.

The impacts of the discharge from individual system on groundwaters must be analyzed on a case-by-case basis for each groundwater basin. It is obviously not necessary to study all groundwater basins. Those basins should be studied where the density of individual systems may result in elevated nitrate or TDS concentrations. The studies will assure the use of individual systems will not impair beneficial uses of the groundwaters and will be consistent with the State Water Resources Control Board's Nondegradation Policy (Resolution No. 68-16).

#### POLICY 4

This Regional Board will prohibit the discharge of wastes which threaten to cause water pollution, water quality degradation, or the creation of health hazards or nuisance conditions or which do not comply with the provisions set forth in Policy 2 above.

**RATIONALE:** Section 13243 of the California Water Code states that a Regional Board, in a water quality control plan or waste discharge requirements, may specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted.

#### POLICY 5

It is the position of this Board that the Alameda Creek Water shed above Niles must receive special consideration with respect to the use of new discrete sewerage systems. It is the intent of this Board to discourage new discrete discharges within the Alameda Creek Watershed which will not be part of the LAVVMA export project until a water quality management plan for the Alameda Creek Watershed above Niles has been completed and approved by this Regional Board.

**RATIONALE:** The Alameda Creek Water shed above Niles has been an area of critical Regional Board Concern for over two decades. To date, the Board's efforts have focused on the three major dischargers in the Livermore-Amador Valley, however, the Board has on several occasions expressed concern over the lack of water quality management planning for the entire watershed.

The Niles Cone groundwater system and Livermore-Amador Valley groundwater basin are two of the most important groundwater systems in the Region. Both are used as sources of domestic water supply and they serve a combined population of approximately 250,000.

There is a long history of actions taken by the Regional Board to protect the Niles Cone and Livermore-Amador Valley groundwaters. In the past three years the Board has taken several actions in the attempt to get local agencies to develop an overall water quality management plan for the entire Alameda Creek Watershed above Niles.

Existing wastewater disposal practices are creating water quality problems in both the Niles Cone and Livermore-Amador Valley groundwaters. The Regional Board has prohibited wastewater discharge to the surface waters of the watershed. Implementation of this prohibition through the LAVVMA export project and application of the prohibition to any new discharges proposed for the watershed will protect the Niles Cone groundwaters from discharges in the Livermore-Amador Valley. Recent studies indicate that degradation of the Livermore-Amador Valley groundwaters will continue even with the export of all wastewaters. New discharges could accelerate that degradation.



The Alameda County Flood Control and Water Conservation District - Zone 7 has recognized this problem through adoption of an Interim Policy (Resolution 823) which prohibits any new reuse of treated wastewater within the Livermore-Amador Valley and express its intent to evaluate the long-term effects of existing reuse on the groundwater resources.

A water quality management plan is necessary to determine if new discharges should be allowed in the watershed and to provide appropriate management practices to protect the quality of the groundwaters.

## DEFINITIONS

Terms used in this policy are defined as follows:

COMMUNITY SYSTEMS - collection sewers plus treatment facilities serving multiple discharges under separate ownership, such as package plants or common septic tanks plus disposal facilities such as evaporation ponds or leachfields.

INDIVIDUAL SYSTEMS - systems for an individual home such as septic tank and leachfield systems.

MAINTENANCE DISTRICT - an entity established to own, monitor, inspect, and maintain individual treatment and disposal systems. Pursuant to SB430 on-site wastewater disposal zones may be formed which have broader powers than those described above.

PUBLIC ENTITY - A local agency, as defined in the State of California Government Code Section 53090 et seq., which is empowered to plan, design, finance, construct, operate, maintain, and to abandon, if necessary, any sewerage system or the expansion of any sewerage system and sewage treatment facilities serving a land development. In addition, the entity shall be empowered to provide permits and to have supervision over the location, design, construction, operation, maintenance, and abandonment of individual sewage disposal systems within a land development, and shall be empowered to design, finance, construct, operate, and maintain any facilities necessary for the disposal of wastes pumped from individual sewage disposal systems and to conduct any monitoring or surveillance programs required for water quality control purposes.

WATERS OF THE STATE - as defined in Section 13050 of the California Water Code, means any water, surface or underground, including saline waters, within the boundaries of the State.

WATER QUALITY MANAGEMENT PLAN - a plan which integrates the following elements into a management tool in a manner compatible with maintaining the quality of the waters of the State consistent with the water Quality Control Plan for the San Francisco Bay Basin.

- (1) Water supply (surface & groundwater);
- (2) Surface water quality;
- (3) Groundwater quality;
- (4) Water-related recreation & wildlife preservation;
- (5) Water reclamation, reuse, and conservation; and
- (6) Wastewater collection, treatment and disposal.

LOCAL LEAD AGENCY - as defined in Section 21062 and 21067 of CEQA means any public agency other than a State agency, Board, or Commission which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.