

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 AEROVISTA PLACE, SUITE 101
SAN LUIS OBISPO, CALIFORNIA**

RESOLUTION NO. R3-2011-0216

Waiver of Waste Discharge Requirements

For

**MOUNDED SEPTIC DISPOSAL SYSTEM
ENZA ZADEN RESEARCH USA FACILITY, 525 LUCY BROWN LANE
SAN JUAN BAUTISTA
(APN 018-130-016)
San Benito County**

The California Regional Water Quality Control Board, Central Coast Region (hereinafter Regional Board) finds that:

1. California Water Code Section 13260(a) requires that any person discharging waste, or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, shall file with the appropriate Regional Board a report of the discharge ("report of waste discharge" or "ROWD") or other report containing such information and data as may be required by the Regional Board.
2. The Regional Board prescribes waste discharge requirements except where the Regional Board finds that a waiver of waste discharge requirements for a specific type of discharge is consistent with applicable water quality control plans and is in the public interest pursuant to California Water Code Section 13269.
3. California Water Code Section 13269 provides that all waivers of waste discharge requirements must be conditional, may not exceed five years in duration, and may be terminated at any time by the Regional Board.
4. The subject site consists of a research facility on 56 acres of property located east of the City of San Juan Bautista at 525 Lucy Brown Lane. The property is within unincorporated portions of San Benito County and is not within a sewer services district and requires an on-site wastewater disposal system. Mr. Ronald Welten of Enza Zaden Research USA, Inc. (hereafter Discharger) applied for a permit with the San Benito County Division of Environmental Health (County Environmental Health) to install an on-site wastewater disposal system (septic tank with leachfield soil absorption disposal system). Depth to groundwater at the subject site is approximately 36 inches.
5. The Regional Board's Water Quality Control Plan (Basin Plan) specifically prohibits discharges from new soil absorption systems installed after September 16, 1983, at sites where the distance between trench bottom and usable groundwater, including perched groundwater, is less than five feet.
6. County Environmental Health determined the site does not meet Basin Plan requirements for a standard on-site subsurface disposal system because of insufficient vertical separation between disposal trench bottom and first encountered groundwater. Consequently, County Environmental Health is not authorized to issue a permit without an exemption from the Basin Plan prohibition.

7. A Report of Waste Discharge and Supplemental Form for the installation of a mounded septic disposal system at the subject site was submitted to the Regional Board by Fall Creek Environmental, Inc. on behalf of the Discharger on April 22, 2011. The San Benito County Environmental Health, Planning & Building, and Engineering Departments certified the Supplemental Form and recommended approval of the exemption request.
8. The proposed mound system design meets applicable portions of the 1980 State Water Resources Control Board Guidelines for Mound Systems and 1989 Final Draft California State Water Resources Control Board Guidelines for the Design, Installation and Operation of Mound Sewage Disposal Systems.
9. The Executive Officer approved the Basin Plan exemption and notified the Discharger of the proposed waiver on August 5, 2011.
10. The Regional Board has considered the design information provided in the Supplemental Form and has required the Discharger, as a condition of this waiver, to comply with all permit requirements of the County Environmental Health.
11. The County of San Benito Planning Department filed a California Environmental Quality Act (CEQA) Notice of Determination on October 18, 2010, certifying the proposed project will not have a significant effect on the environment. The County adopted a Negative Declaration for the project pursuant to the provisions of CEQA. The Regional Board considered the Negative Declaration prepared by the County and agreed that the project would not have a significant effect on the environment if the discharger complies with the conditions contained in this waiver of waste discharge requirements. Mounded disposal system designs have been successfully applied under similar conditions throughout the state since prior to 1980.
12. Relevant factors in determining whether a waiver is in the public interest include the following:
 - a) Whether the discharge is already regulated by another governmental entity;
 - b) Whether the Discharger will observe reasonable practices to minimize the deleterious effects of the discharge;
 - c) Whether a feasible treatment method exists to control the pollutants in the discharge; and
 - d) Whether conditionally waiving ROWDs and/or waste discharge requirements will adequately protect beneficial uses while allowing the Regional Board to utilize more of its resources to conduct field oversight, public outreach and, where necessary, enforcement.
13. The mounded disposal system is regulated by the County Environmental Health, which requires the Discharger to implement operational controls, maintenance activities, and regular monitoring and reporting to prevent water quality impacts as a result of system overloading, power failure, and system failure.
14. The conditions of this waiver protect beneficial uses by:
 - a) Prohibiting pollution, contamination or nuisance;
 - b) Requiring monitoring and compliance with applicable water quality control plans and County Environmental Health permit requirements; and
 - c) Requiring the Discharger to grant access to Regional Board staff to perform inspections.
15. If the proposed mounded disposal system is properly operated and maintained in accordance with County Environmental Health permit conditions and the conditions of this Resolution, a waiver of waste discharge requirements is in the public interest and is consistent with applicable water quality control plans, including the Water Quality Control Plan, Central Coast Region.

16. Pursuant to California Water Code (CWC) Section 13269, this action waiving the issuance of waste discharge requirements for this on-site domestic mounded septic disposal system: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Regional Board from administering enforcement remedies (including civil liability) pursuant to the CWC.
17. Operation of the system consistent with this Resolution will not degrade groundwater and is consistent with State Water Resources Control Board Resolution 68-16. Resolution 68-16 provides if there is degradation of water quality it must not “unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed [by the water quality control] policies.” In short, the degradation may not violate water quality objectives or in the absence of objectives, must not unreasonably affect existing and designated beneficial uses. Also, if there is degradation the Board must determine that it has been demonstrated the change “will be consistent with the maximum benefit to the people of the State.”
18. The monitoring and reporting requirements of this Resolution are imposed pursuant to CWC Section 13267. The monitoring and reporting are necessary to ensure compliance with the conditions of this Resolution and to verify the adequacy and effectiveness of the conditions.
19. The Regional Board conducted a public hearing on September 1, 2011, in San Luis Obispo, California, and considered all evidence concerning this matter.

THEREFORE BE IT RESOLVED:

1. In accordance with CWC Sections 13267 and 13269, waste discharge requirements for the proposed on-site domestic mounded septic disposal system are hereby waived subject to the following conditions:
 - a) The individual sewage disposal system shall be installed under the oversight of County Environmental Health and be operated and maintained in accordance with County Environmental Health permit conditions.
 - b) County Environmental Health will regularly inspect the system and monitor the system after all rainfall events resulting in greater than one inch of precipitation. The Executive Officer shall terminate this waiver if County Environmental Health does not regularly inspect and monitor the system.
 - c) Per County Environmental Health permit conditions, the Discharger shall submit an annual monitoring report addressing the use of the system to the Regional Water Quality Control Board and the County Environmental Health. The first annual report shall be submitted by December 31st following installation of the mound system and annually thereafter. The report shall contain, at a minimum, the following items:
 - i) The septic tank and alarm system shall be inspected and information recorded every six months (June and December) for the life of the sewage disposal system. Information collected shall include, but is not limited to, the condition of the tanks, the water level in the tanks, the condition of the pump, the condition of the alarm system, scum layer/sludge thickness, and the distance of these two layers from the bottom of the outlet, and depth to groundwater measurements in the monitoring wells. The semiannual inspections shall be performed, and the reports prepared, by a C-42 licensed contractor or other professional technician experienced in the operation and maintenance of mound disposal systems.

- ii) The disposal area shall be inspected monthly during the first two years of operation and an inspection log shall be maintained and shall be kept onsite
 - d) The sewage disposal system shall be inspected every two years for solids buildup and be pumped as required by a licensed septic tank contractor.
 - e) Peak daily flow shall not exceed 360 gallons per day.
 - f) Detailed "as built" drawings shall be provided to the County Environmental Health upon installation of the system.
 - g) A copy of a signed maintenance and repair agreement shall be submitted to County Environmental Health before discharge to the individual sewage disposal system is initiated.
 - h) Use of the individual sewage disposal system shall not create a condition of pollution, contamination, or condition of nuisance, as defined by CWC Section 13050.
 - i) Only domestic wastewater shall be discharged to the individual sewage disposal system.
 - j) The Regional Board and County Environmental Health shall be immediately notified of any proposed change(s) in discharge volume, nature, or location.
 - k) The Regional Board and County Environmental Health shall be immediately notified of any discharges threatening water quality or public health.
 - l) The Regional Board may inspect the septic tank/leachfield system at any time to evaluate compliance with this Region's Basin Plan.
2. This Waiver shall not create a vested right and all such discharges shall be considered a privilege, as provided for in CWC Section 13263.
 3. The Executive Officer or Regional Board may terminate the applicability of the Waiver described herein at any time if the Discharger violates the conditions of this waiver, if such termination is in the public interest, or if the mounded septic disposal system could adversely affect the quality or beneficial uses of the waters of the State.
 4. This Waiver shall become effective on **September 1, 2011**, and shall expire on **September 1, 2016**. The discharger may request a renewal of the waiver prior to the expiration date.
 5. As provided by CWC Section 13350(a), any person may be civilly liable if that person is in violation of a waiver condition or waste discharge requirements, intentionally or negligently discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State and creates a condition of pollution or nuisance.
 6. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Board within 30 days of the date of this Resolution. Copies of the law and regulations applicable to filing petitions will be provided upon request.

I, Roger W. Briggs, 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, Central Coast Region, on September 1, 2011.

Roger W. Briggs, Executive Officer