



May 16, 2008

William Brattain, P.E.
Water Resources Control Engineer
California Regional Water Quality
Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

RE: RESPONSE TO LETTER DATED MAY 12, 2008, TENTATIVE WASTE
DISCHARGE REQUIREMENTS, FINK ROAD LANDFILL, STANISLAUS
COUNTY

Dear Mr. Brattain:

The County of Stanislaus received your letter of May 12, 2008, in which you provided responses to our comments on the Fink Road Landfill Tentative Waste Discharge Requirements (WDRs). While we do agree with some of the responses, we still believe that the inclusion of certain requirements in the WDRs will result in an Order in which some requirements are unattainable. Because of this, please accept the following comments regarding your responses:

Comment #1 – Findings No. 7: The modified statement of intent more closely reflects the requirements of the WDRs, and we agree that a study of inorganic components in groundwater can be conducted, but we disagree that a study of organic compounds is necessary. Further, a Feasibility Study and Corrective Action Plan should not be required unless it is determined that a release has occurred.

Comment #2 – Findings No. 4: Thank you for this correction.

Comment #3 – Findings No. 39: The Water Quality Protection Standard Report submitted March 15, 2007, proposes that intrawell statistics be used to calculate concentration limits. This is based on widely varying background water quality in the area of the landfill. It is our understanding that the RWQCB has agreed with this approach at other landfill sites on the western side of the valley and we are requesting this same consideration.

The approach uses the first eight data points as the baseline data. No amount of additional site investigations would change this approach; rather, it would only add new intrawell points. If RWQCB staff is rejecting the use of intrawell statistics for this site outright, then we are limited to the use of interwell statistics which have already been

shown to be ineffective in determining a release. This scenario presents quite a dilemma; specifically, trying to determine how to comply with the requirement to submit revised Water Quality Protection Standards when interwell statistics are not scientifically valid and intrawell statistics have been rejected. Given this, we are requesting that the Tentative WDRs be pulled from the June agenda for a period of 90 days to allow us time to meet with RWQCB staff and discuss what approach will be valid and acceptable.

Comment #4 – Findings No. 42: You are correct in your response and we withdraw our prior comment. Sumps LF3-C3P and LF3-C3S are part of the LCRS and the pan lysimeter was not installed under LF3 Cell 3. This omission will be corrected on future cells.

Comment #5 – Findings No. 45 and 46: The core of this issue is the study of MTBE in groundwater. Although you have listed nine examples of MTBE detections, all but one of these is either a leachate detection or landfill gas. We agree that MTBE has been detected in leachate. MTBE and other fuel oxygenates have been detected in the leachate systems of many landfills in California. Often, these VOCs are now the most common and highly concentrated VOCs detected. However, the presence of MTBE or any other VOC in leachate, does not constitute a need for a groundwater study. The detection of low concentrations of MTBE in landfill gas samples is to be expected when there is MTBE in the site, and this result also does not require a groundwater investigation.

The only MTBE detection listed for groundwater was for two occasions in late 2006 and early 2007, in well MW-17. In response to this, we began sampling this well quarterly for VOCs, instead of the required semi-annual interval, and collected samples in duplicate. No MTBE has been detected in the samples for a year. This presents another dilemma; specifically, how to comply with the requirement to study this and determine a source when current sampling results are not detecting MTBE in groundwater.

We previously explained that, in our opinion, the source was atmospheric deposition in the local groundwater recharge area, which leads to the vicinity of MW-17. This phenomenon has been documented as a source of MTBE in drinking water supplies by the U.S. EPA. If we place more wells farther from the landfill and find no MTBE (as is the current case with MW-17), then what is to be concluded? A finding of no MTBE outside the landfill does not conclude that the landfill is the source because the source may have been an offsite one that no longer exists. Since MTBE has been removed from gasoline, there clearly can be sources such as this that may no longer exist.

Given that there has been no MTBE detected in MW-17 for a year, and prior to that it was detected only twice at concentrations below 1 µg/L, the requirement for a costly groundwater study seems overly burdensome. In addition, we are struggling with how we would determine the nature and extent of something that is not present. Lastly on this point, it has been brought to our attention that other landfills within the Central Valley

Valley Region have had MTBE detections in monitoring wells, at higher concentrations, more consistently, and for longer periods of time, yet have not been required to complete such a study. If this is the case, there may be an issue of fairness as well.

We are continuing to sample MW-17 for VOCs, in duplicate, quarterly. At this time, with no detections occurring for over a year, we feel this is an appropriate program and warrants no further groundwater investigations.

Comment #6 – Provisions, Section H.14: This has been addressed in the comments, above. RWQCB staffs appear to conclude that, if an offsite source cannot be identified, then the two detections of MTBE have come from a landfill release. This conclusion disregards the possibility of atmospheric deposition which may have been temporary, as was the use of MTBE as a fuel additive. It is recognized that the regulations are structured along this line of thought, but MTBE is a special case. The regulations assumed that if there was an offsite source of groundwater impact, then that impact must be ongoing and can be identified. This may not be the case with trace levels of MTBE in groundwater recharge areas.

Comment #7 – Provisions, Section H.15A.: This is also related to the MTBE issue which is addressed above.

Comment #8 – Provisions, Section H.15B.: The County agrees to perform an investigation into the variability of inorganic compounds in groundwater. However, the date that can be set for concluding such a study is perplexing. The increasing (and decreasing) trends for some naturally occurring inorganics, in some monitoring wells, have been ongoing for many years. This may be related to variations in seasonal precipitation and recharge, and/or to changes in adjacent land use which is not something that can be quantified in a 60 or 90 day timeframe. These trends, in fact, may be decades long. This is why it was proposed that we provide ongoing study results within the quarterly reports, as data are collected. This can be done in a separate section to the current monitoring report format.

The County is unable assign a date when a study of the variability of natural inorganic compounds can be completed. No amount of money can identify in months what most certainly is a trend spanning many years.

Comment #9 – Provisions, Section H.15.C.: The County was not asking for the authority to determine if and when an Engineering Feasibility Study and Corrective Action Plan is required. As written, the Tentative WDRs stated that they would be required and this should not be true if no release is identified. We only requested that the WDRs state that these documents will be submitted, if necessary, in response to an identified release.

Comment #10 – Provisions, Section H, Paragraph 16: As addressed previously, the County is requesting time to meet with RWQCB staff to determine an appropriate course of action on the Water Quality Protection Standard. No amount of additional investigation will alter the intrawell approach which uses the first eight historic data points to establish a baseline. Additional investigation can add new monitoring points, but if these are upgradient of the landfill they will not meet the definition of points of compliance. It appears that the RWQCB wants additional investigation to determine a single background concentration for each inorganic parameter. If the additional investigation supports the existing data, however, the natural variability will be too great for this approach to be valid.

Comment #11 – MRP Section D.4: Thank you for this correction.

SUMMARY

Stanislaus County wishes to confirm that is willing to continue working with the RWQCB to protect the water resources of the State. We agree with most of the provisions of the Tentative WDRs, however, in our opinion, a few of the proposed provisions may be unattainable. If the RWQCB issues orders that are unattainable or scientifically invalid, the result will be non-compliance. In an effort to avoid this, we are requesting that these Tentative WDRs be postponed for adoption for 90 days to allow the RWQCB staff and the County to meet and resolve these issues. This will hopefully allow the Board to pass new WDRs that are fair and attainable, and still protective of the water resources of the State. This postponement does not put the environment at any greater risk, yet will most certainly result in a better WDRs and a better scientific approach to defining outstanding issues.

Regards,



Jami Aggers, R.E.H.S., S.C.
Assistant Director

Cc: Ron Grider, Stanislaus County
Michael Franck, Stanislaus County
Wayne Pearce, SCS Engineers