

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition of)
)
OPERATING INDUSTRIES, INC.)
)
For Review of Order No. 84-119 of the)
California Regional Water Quality)
Control Board, Los Angeles Region.)
Our File No. A-368.)

ORDER NO. WQ 85-4

BY THE BOARD:

On November 19, 1984, the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) adopted revised waste discharge requirements (requirements) in Order No. 84-119 for Operating Industries, Inc. (discharger or petitioner). The requirements regulate closure and subsequent maintenance of a solid waste disposal facility which the discharger operates in Monterey Park. The site is also regulated by the California Department of Health Services through a Resource Conservation and Recovery Act Interim Status Document.

On December 13, 1984, the State Water Resources Control Board (State Board) received a petition from the discharger seeking review of the Order. The discharger also sought a stay of the effect of the requirements, but the petition did not meet the regulatory requirements for a stay.¹

¹ On February 4, 1985, the State Board received an affidavit containing allegations intended to comply with the requirements of 23 Cal.Admin.Code Section 2053(a) for request of a stay. This affidavit contained no allegation or proof of substantial questions of fact or law regarding the disputed action, as required in Section 2053(a)(3).

I. BACKGROUND

Operating Industries, Inc. operates a solid waste disposal site in Monterey Park. The site received liquid and solid wastes since it began operating in 1948. Leachate, liquid waste which collects in the landfill, has been a disposal problem at the site since 1982. Incidents of offsite leachate migration have occurred. Disposal of liquids at the site ceased in January 1983. On October 2, 1984, the site ran out of volume and stopped accepting solid wastes. In August 1984, the Department of Health Services issued a remedial action order to the discharger requiring an end to leachate disposal within the site, and construction of a permanent leachate treatment facility to correct the leachate buildup problem. In October 1984, the Regional Board issued a cleanup and abatement order requiring a reduction in the volume of leachate stored on-site.

Under the discharger's prior requirements (Regional Board Order No. 76-133), the discharger was permitted to dispose of leachate collected at the site by mixing it with incoming solid waste. The new requirements, adopted after the discharger ceased accepting solid wastes, prohibit the redisposal of leachate (Requirements, A.1). The requirements order the discharger to develop and operate a leachate collection and treatment facility by December 31, 1984. At the time the requirements were adopted, the discharger was no longer discharging leachate into the site, but was transporting it to an off-site disposal facility. In addition, the requirements prohibit the disposal of condensate wastewater from in-line collection traps and sumps after February 1, 1985. The traps and sumps have been used to allow on-site subsurface disposal of the gas collection system wastewater condensate.

II. CONTENTIONS AND FINDINGS

The petitioner raises two issues regarding the requirement for a leachate collection and treatment facility. First, the petitioner argues that the requirement for construction of a specific system to collect and treat leachate violates Water Code Section 13360. Second, the petitioner argues that it was physically impossible for it to construct and operate the facility by the December 31, 1984 compliance date. The petitioner further argues that it was inappropriate and improper for the Regional Board to prohibit the disposal of condensate from in-line collection traps and sumps.

1. Contention: The Regional Board's requirements regarding construction and operation of a leachate treatment facility are inappropriate and improper.

Finding: The requirements mandate operation of a leachate management system, including a treatment facility, by December 31, 1984. The petitioner claims that this requirement violates Water Code Section 13360.² That section generally prohibits the Regional Boards from specifying the manner of compliance with waste discharge requirements.³ Section 13360 prohibits

² The petitioner is not disputing the prohibition against discharging leachate into the site, but only the provisions requiring construction and operation of a treatment facility. At the time the requirements were adopted, the petitioner was transporting the leachate to an off-site disposal facility and was planning construction of a treatment facility. The facility is not yet operational.

³ "No waste discharge requirement or other order of a regional board or the state board or decree of a court issued under this division shall specify the design, location, type of construction, or particular manner in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply therewith in any lawful manner. However, regarding disposal sites other than evaporation ponds from which there
(CONTINUED)

the Regional Board from "specify[ing] the design, location, type of construction, or particular manner in which compliance may be had" with requirements. It is clear that this general language would prohibit specification of construction of a leachate treatment plant. The Regional Board argues, however, that its requirements fall within the exception created by Section 13360 for requirements for disposal sites. In such requirements, the Regional Board can specify construction and the manner of compliance regarding "the installation of surface and underground drainage facilities to prevent runoff from entering the disposal area or leakage to underground or surface water, or other reasonable requirements to achieve" such purposes.

We do not agree with the Regional Board that the exception for disposal sites created in Section 13360 permits requirements which specify construction of a leachate treatment facility. The exception is intended to allow the Regional Board to insure that contaminated liquids or solids will not leave a disposal site and enter either underground or surface waters. Consistent with Water Code Section 13360, our regulations require leachate collection and removal systems at Class I and II landfills (23 Calif.Admin.Code §2543). However, such provisions do not require treatment on-site. They

3 (FOOTNOTE CONTINUED)

is no drainage or seepage, the restrictions of this section shall not apply to waste discharge requirements or orders or decrees with respect to the discharge of solid waste requiring the installation of riprap, the construction of walls and dikes, the installation of surface and underground drainage facilities to prevent runoff from entering the disposal area or leakage to underground or surface waters, or other reasonable requirements to achieve the above or similar purposes. If the court, in an action for an injunction brought under this division, finds that the enforcement of an injunction restraining the discharger from discharging waste would be impracticable, the court may issue any order reasonable under the circumstances requiring specific measures to be undertaken by the discharger to comply with the discharge requirements, order, or decree." (Water Code Section 13360.)

provide that collected leachate may be returned to the landfill or discharged to a different waste management unit (§2543(g)). The requirements at issue here, however, specify the method of leachate disposal, rather than construction of facilities to prevent off-site migration of the leachate. The discharger is currently collecting the leachate and transporting it to an off-site disposal facility pending completion of its proposed treatment plant. The prohibition contained in Section 13360 prohibits the Regional Board from specifying that the discharger must treat and dispose of the waste on-site as opposed to transporting the waste to another disposal facility.⁴

The petitioner further claims that it was physically impossible for it to comply with the requirement that the leachate treatment plant operate by December 31, 1984. Because we have concluded that it was improper for the Regional Board to require construction of this plant, we will not address this issue. We note, however, that the requirements will continue to prohibit the on-site redisposal of leachate.

2. Contention: The prohibition against disposal of condensate from in-line collection traps and sumps is inappropriate and improper.

Finding: The requirements provide that the discharger must submit a plan for the disposal of condensate wastewater from in-line collection traps and sumps in the landfill's methane gas collection system by December 3, 1984.

⁴ We note that in establishing this requirement the Regional Board was attempting to make its requirements be consistent with those contained in the remedial action order issued by the Department of Health Services. The two orders will still remain consistent since both prohibit discharge of untreated leachate into the disposal site. The Regional Board may include a finding in its requirements stating that it has reviewed the remedial action order and concurs with the requirements included therein.

The disposal of condensate from these sources to the landfill is prohibited after February 1, 1985.

The composition of the condensate wastewater is described in Attachment 1. The wastewater is a hazardous waste within the meaning of Title 22, California Administrative Code, Section 66696(a)(6), which includes wastes which:

"[have] been shown through experience or testing to pose a hazard to human health or environment because of its carcinogenicity, acute toxicity, chronic toxicity, bioaccumulative properties or persistence in the environment...."

The condensate must be classified as a hazardous waste because of the presence of high concentrations of aromatic and chlorinated hydrocarbons. These compounds are known to be toxic, carcinogenic and persistent in the environment. From a review of the requirements for landfills accepting hazardous wastes, see e.g. 23 Cal.Admin.Code §2531, it is clear that the Regional Board acted properly in excluding these hazardous wastes from the site.

Regulations adopted by the State Board concerning discharges to solid waste facilities (23 Cal. Admin. Code, Chapter 3, Subchapter 15) do exempt discharges of condensate from methane gas recovery operation from the general requirements of the regulations. Title 23, Cal.Admin.Code §2511(e). However, these regulations represent minimum standards, and Regional Boards "may impose more stringent requirements to accommodate regional and site-specific conditions." Id., Section 2510(a). In the case of the discharger's landfill, the prohibition against disposal of condensate was proper and appropriate. Allowing the condensate to percolate into the soil at the site

would exacerbate an already serious leachate generation problem. There are two major ground water basins in the vicinity of the landfill site, the San Gabriel Valley and the Los Angeles Coastal Plain. (Requirements, Finding 6). The Montebello Hills, where the landfill is located, separates these two basins. The ground water of these basins is of good quality and used extensively for municipal, industrial and agricultural purposes. It was prudent and reasonable for the Regional Board, under its general authority contained in the Porter-Cologne Water Quality Control Act (Water Code Sections 13000 et seq.), to protect these ground water basins by prohibiting the discharge of the condensate given the fact that the material is hazardous and given the leachate buildup problems.

The discharger claims that the Regional Board is required to allow on-site condensate disposal because this method was approved by the Los Angeles County Sanitation District. However, the letter submitted by the discharger purporting to support this claim does not mandate or endorse an on-site disposal system. It merely approves the proposal submitted by the discharger entitled, "Operating Industries Landfill Gas Migration and Slope Emission Monitoring Plan." In any event, the Regional Board may require more stringent controls than a local agency.

III. CONCLUSIONS

After review of the record and consideration of the contentions of the petitioners, we conclude as follows:

1. The requirement that the petitioner construct and operate a leachate treatment facility by December 31, 1984 is in violation of Water Code Section 13360; and;
2. The prohibition against disposal of condensate wastewater to the landfill is proper and appropriate.

IV. ORDER

IT IS HEREBY ORDERED that the requirements are amended to omit the requirement that the discharger construct and operate a leachate treatment facility as part of its leachate management system.

IT IS FURTHER ORDERED that the petition in this matter is otherwise denied.

V. 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 April 18, 1985.

Aye: Raymond V. Stone
Kenneth W. Willis
Edwin H. Finster

No:

Absent: Darlene E. Ruiz

Abstain:



Michael A. Campos
Executive Director

AB JOB NO. SJ03284

<u>TEST</u>	<u>DESCRIPTION</u>	<u>RESULT</u>	<u>UNIT</u>	<u>FOOTNOTE</u>
16: 612	- VINYL CHLORIDE	< .1	MG/L	
17: 613	- O-DICHLOROBENZENE	.4	MG/L	
18: 614	- M-DICHLOROBENZENE	.2	MG/L	
19: 615	- P-DICHLOROBENZENE	2.7	MG/L	
20: 616	- 1,1-DICHLOROETHANE	.9	MG/L	
21: 618	- 1,1,2-TRICHLOROETHANE	< .1	MG/L	
22: 619	- 1,2-DICHLOROETHANE	.4	MG/L	
23: 620	- BENZENE	1.5	MG/L	
24: 621	- TOLUENE	33	MG/L	
25: 624	- ETHYL BENZENE	8.9	MG/L	
26: 645	- TRANS-1,2-DICHLOROETHYLEN	< .1	MG/L	
27: 646	- BROMOMETHANE	< .2	MG/L	
28: 647	- CHLOROETHANE	< .1	MG/L	
29: 648	- 2-CHLOROETHYL VINYLETHER	< 1.0	MG/L	
30: 649	- CHLOROMETHANE	< .2	MG/L	
31: 650	- 1,2-DICHLOROPROPANE	< .1	MG/L	
32: 651	- CIS-1,3-DICHLOROPROPENE	< .1	MG/L	
33: 652	- TRANS-1,2-DICHLOROPROPENE	< .1	MG/L	
34: 653	- 1,1,2,2-TETRACHLOROETHANE	< .2	MG/L	
35: 654	- ACROLEIN	1010101	MG/L	INTERFERENCE 10
36: 655	- ACRYLONITRILE	1010100	MG/L	INTERFERENCE 10

TO: P.LO

LAB JOB NO. SJ03284

CHARGE NO. 1: TS14905B338 2: TS00000B000 3: TS00000B000

REQUESTED BY: J.KREMER SAMPLE VOLUME : 0.1 LITER

GRAB SAMPLE DATE AND TIME: 06/12/84 11:15

DESCRIPTION: GETTY SYNTHETIC FUEL-OPERATING INDUSTRY LE, MONTEREY PARK CON
CONDENSATE STRAIGHT FROM KNOCKON

SAMPLE LOCATION: 3 -- IW03 -- 000 TYPE: IWS

RPT APPROVED BY: E.G.

RPT COMPLETION DATE: 07/05/84

TEST	DESCRIPTION	RESULT	UNIT	FOOTNOTE
1: 101	- PH	4.50	PH	
2: 151	- SUSPENDED SOLIDS	438	MG/L	
3: 403	- TOTAL COD	18400	MG/L O	
4: 408	- OIL & GREASE	333	MG/L	
5: 601	- METHYLENE CHLORIDE	.6	MG/L	
6: 602	- CHLOROFORM	< .1	MG/L	
7: 603	- 1,1,1-TRICHLOROETHANE	< .1	MG/L	
8: 604	- CARBON TETRACHLORIDE	< .1	MG/L	
9: 605	- 1,1-DICHLOROETHENE	< .1	MG/L	
10: 606	- TRICHLOROETHYLENE	1.1	MG/L	
11: 607	- TETRACHLOROETHYLENE	1.2	MG/L	
12: 608	- BROMODICHLOROMETHANE	< .2	MG/L	
13: 609	- DIBROMOCHLOROMETHANE	< .2	MG/L	
14: 610	- BROMOFORM	< .2	MG/L	
15: 611	- CHLOROBENZENE	< .2	MG/L	

FOOTNOTE: 10: INTERPERENCE

NOTES : UNIDENTIFIED HALOGENATED COMPOUND ESTIMATED TO BE >5 MG/L