

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION

SUPPLEMENTAL SHEET FOR REGULAR MEETING OF JULY 6, 2007

Prepared on June 22, 2007

ITEM NUMBER: 26

SUBJECT: Executive Officer's Report; Update Regarding Las Palmas Ranch Residential Development, Water Reclamation Requirements – Order No. R3-2006-0041

**COMMENT LETTERS**

Staff is providing the two attached June 12, 2007 electronic correspondence letters from Mr. Robert Taylor for your information (Attachments 1 and 2). The following discussion provides a brief background and written response to Mr. Taylor's comments.

Additional letters presented by Mr. Taylor prior to the December 1, 2006 hearing regarding proposed Order R3-2006-0041 and staff responses to those comments in the form of a staff report and supplemental sheet are provided as additional attachments for reference and to readdress Mr. Taylor's June 12, 2007 comments.

**BACKGROUND**

Mr. Taylor submitted similar, if not identical in context, comments prior to the adoption of Order R3-2006-0041 (Order). Staff responded to those comments at length as part of the agenda package for the proposed Order. Mr. Taylor chose to not attend the December 1, 2006 hearing, citing prior commitments. The Order was adopted on December 1, 2006 with no substantive changes being made based on Mr. Taylor's written comments.

It should be noted for clarification that the County of Monterey (County) is currently the permitted distributor for the reclaimed water being applied at the Las Palmas Ranch Residential Development and that the County

has not contested the requirements Mr. Taylor is questioning. Mr. Taylor's comments should be taken in the context of an advocate for the formation of a Master Irrigation Association to take over the distributorship from the County. No correspondence has been received from Mr. Taylor, aside from his April 23, 2007 response to staff inquiries outlined in the update discussion, regarding the formation of the Master Irrigation Association or the adopted Order since prior to December 1, 2006. Mr. Taylor's renewed interest in the distributor requirements is apparently based on the County's intent to transfer distributor responsibility to Cal Am in the absence of the formation of a Master Irrigation Association. Based on the lack of progress towards establishing a Master Irrigation Association, the users appear to be content with the County's existing role as the distributor, but do not want Cal Am to control distribution of the reclaimed water as Cal Am intends to charge the users to cover the cost of managing reclaimed water distribution. The users, consisting primarily of the homeowners' associations, only appear to be willing to form the Master Irrigation Association to take over the distributor responsibilities if it can be afforded the same historical lack of oversight and responsibility while being able to control the reclaimed water supply at no additional cost to the users. Staff feels this is unrealistic given the distributor responsibilities associated with implementing the requirements of the unified statewide water reclamation criteria pursuant to Title 22 of the California Code of Regulations, Chapter 7 of the California Water Code, and Basin Plan.

**STAFF RESPONSE**

Staff contends that Mr. Taylor's comments have been addressed, albeit not to his satisfaction, as part of the documents presented for the adoption of the Order. Subsequently, staff is referencing the attached letters and staff responses (Attachments 3-6) provided as part of the December 1, 2006 agenda package for the proposed Order as the primary response to his June 12, 2007 revisited comments.

However, staff would like to address Mr. Taylor's concern regarding the users' "remediation responsibility" associated with potential groundwater impacts as a result of applying the reclaimed water. Staff believes Mr. Taylor is referring to the Groundwater Limitations included within the Order under section D. (Distributor/User Requirements). Staff acknowledges the difficulties in controlling the quality of the reclaimed water and other inputs to the groundwater basin. Notwithstanding this acknowledgement, the Order contains individual supplier and distributor limitations and prohibitions that are appropriate to protect public health and water quality that are consistent with applicable statutes, the Basin Plan, and other waste discharge requirements for facilities in the Central Coast Region. A necessary condition of utilizing reclaimed water that Mr. Taylor appears to be uncomfortable with is that the distributor and individual users assume the responsibility of applying the reclaimed water in a manner consistent with appropriate statutes and any potential impacts to water quality as a result of the application once they take ownership of it from the supplier.

Staff maintains the Order is consistent with applicable regulations for the supply, distribution, and use of reclaimed water, is consistent with other waste discharge requirements in the Central Coast Region, and is protective of water quality.

**ATTACHMENTS**

1. June 12, 2007, electronic mail from Mr. Bob Taylor to Gary Shallcross re: Las Palmas Ranch – Regional Water Board
2. June 12, 2007, electronic mail from Mr. Bob Taylor to Matthew Keeling re: Las Palmas Ranch
3. October 11, 2006, electronic mail from Mr. Bob Taylor re: Las Palmas draft Order.
4. November 6, 2006, Staff Report for Regular Meeting of December 1, 2006, Item Number 9 re: Re-Issuance of Waste Discharge and Water Reclamation Requirements for Las Palmas Ranch Residential Development, Monterey County – Order No. R3-2006-0041
5. November 22, 2006, letter from Mr. Bob Taylor re: Proposed Order No. R3-2006-0041, December 1, 2006; Agenda Item #9- Las Palmas Ranch Water Reclamation Plant.
6. November 30, 2006, Supplemental Sheet for Regular Meeting of December 1, 2006, Item Number 9 re: Re-Issuance of Waste Discharge and Water Reclamation Requirements for Las Palmas Ranch Residential Development, Monterey County – Order No. R3-2006-0041

lawyerrct@comcast.net on Tuesday, June 12, 2007 at 2:15 PM -0800 wrote:  
Gary,

It was good to talk to you at the Carr Lake pow-wow in Spvsr. Calcagno's conference room.

A heads up for you, relating to the WDR governing Las Palmas Ranch on River Road. As you know, the users were concerned about the reporting and remediation requirements in the order. The staff has indicated the reporting requirements are non-negotiable. That's unfortunate, but may be irreversible.

As users, we would rather report gross water usage or, ideally, weekly levels in the storage ponds. In other words, just report that our irrigation system is operating normally; and specify where and how if it is not. The WDR has a grid for reporting gallonage per individual parcel (easily 100+) which seems a bit much. But if that's what we have to do, then that's what we'll do.

However, the WDR also makes the users responsible for salt, nitrates and other things building up in the groundwater. While we can do the groundwater monitoring, there is nothing legally we can do about the quality of the water. We simply spray what we are given by the treatment facility. And unlike some other homeowner associations perhaps, we only own a small percentage of the land area with lawns. The rest is owned by private homeowners over whom we have no control. So we can't regulate the amount of fertilizer or the use of water softeners, etc.

I have suggested to staff that we discuss modifying the remediation portions of the WDR to place responsibility where it should be, and I don't know yet what the response will be. If things don't work out, I may come to the July meeting in Watsonville to try again to make our points clear.

If you have any suggestions, would you let me know?

Bob Taylor

**From:** <lawyerrct@comcast.net>  
**To:** "Matt Keeling" <Mkeeling@waterboards.ca.gov>  
**Date:** 6/12/2007 1:53:17 PM  
**Subject:** Re: Las Palmas Ranch

Matt,

Thanks for your response on the reporting requirements issues. I understand that; I was just checking.

The more interesting issue is the water quality responsibility issue. Let's assume that the users make the various reports and do the required monitoring, what happens when there is salt, nitrate or other noxious buildup in the groundwater? I believe the current iteration of the order makes the users responsible for remediation.

However, the users have no control over the inputs to the system (other than fertilizer on the users' own grass areas--which are considerably less than the grass areas owned by non-users). The users also have no control over the output from the facility.

Control over inputs legally rests with the County (only they can regulate private fertilizer use or water softeners, etc., as I understand it). Output is controlled by the treatment facility (Cal-Am).

I think the users would be comfortable if we could come up with some modification to the existing WDR to assign remediation responsibility where it is practically and legally feasible. Are you open to those discussions?

I believe that the users will accept the reporting requirements, given that they appear non-negotiable.

Let me know on the remediation stuff. Thanks.

Bob Taylor

**CC:** <stuart@brandon-tibbs.com>

**From:** Matt Keeling  
**To:** Matt Keeling  
**Date:** 11/7/2006 5:39:48 PM  
**Subject:** Fwd: Re: Las Palmas draft Order (with comment numbers added)

>>> <lawyerrct@comcast.net> 10/11/2006 9:26 AM >>>

Matt,

(1)

Thanks for your reply. I have some further comments as I have now reviewed the materials a bit more. In general, my concern is that since we do not control the water supply, are required to take all the water produced by the plant, and have only one thing to do with the water once we get it, keeping track of amounts and areas, etc., is redundant if not irrelevant. The information that would be important should come from the monitoring wells, but even that doesn't address what happens if the application of the water causes some salt or nutrient problems. If there are salts or nutrients, they need to be removed at the plant. Frankly, as a homeowner, I am a bit surprised that this whole system was approved without apparent consideration of the fact that it might not work or would have deleterious effects. If the recycled water sprinkling causes an aquifer problem, what is the alternative? Do we just bag the landscaping or stop flushing or what? And what happens to the sewage?

(2)

Anyway, here are my more specific comments: In the staff report summary, I do not believe it is accurate at this point to say that the agreement between Supplier and Users is "increasingly uncertain". Tom Peterson and I have agreed on the concepts necessary to complete the agreements, and he has sent me a draft, which I will get to soon (I'm spending my time on your stuff right now). I think it would be better to say that procedural and timing issues have delayed the agreement at this point and that an agreement should be forthcoming.

(3)

On page 3 of the staff report, you talk about the monitoring wells. This was the first I've heard of this. Can you tell me where the requirement was, where the wells were supposed to be and anything else you know about this? If they were required, then we have either or both a developer failure and a county enforcement failure, and I would like to know which before pursuing this.

(4)

As to the nutrient and salt plans, I repeat my general comments. We have no control over what is in the water when we receive it. We don't add anything to it once we get it. We have no choice but to sprinkle it (that I am aware of). How we can "ensure" that nitrogen doesn't leach is beyond me, other than cutting down on fertilizer. Same for the salts. This strikes me as a potential problem.

(5)

On page 4, the report refers to "daily metering", weekly monitoring, record keeping, quarterly updates to the County regarding daily flow rates etc, and annual testing of backflow. I don't think the HOA's will go for a program that looks like a full time job. And, as I pointed out, we don't have meters. What I would prefer would be something that says we will use automatic timers on the sprinklers (perhaps with some specified time maximum per valve), promptly repair any sprinkler malfunctions, and certify once or twice a year that we have complied.

(6)

As to groundwater monitoring, also on page 4, it seems that applies to the County, so I'm not sure if we as HOA's need to get involved?

(7)

In the proposed Order, it refers to the County as the Distributor until the Users form the Association, but it doesn't say what happens then, that I could see. Maybe I missed it.

(8)

If I interpret paragraph 79 correctly, we need to adjust our fertilizer if there is too much nitrogen. I don't know of anything else that we control that we could do, if there is a problem.

(9)

I think I understand all the salt stuff around paragraph 90 etc.(pages 13-16), but it seems the only thing that can be done is to prohibit self-regenerating water softeners if a problem develops. I don't think the

HOA's have the authority to do that, so I assume that would be the county. Bottom line, though, is I don't think there is anything the Users can do about it as Users. Maybe there are some alternatives I don't know about? Anyway, it seems to me that annual testing ought to be enough, rather than daily, weekly and quarterly reporting.

(10)

On page 23, paragraph 2, gives the Distributor (County) the ability to add additional Users. This should be limited to new Users approved by the existing Users, since we don't want to lose our irrigation water to someone else.

(11)

I don't think paragraph 7 means anything, since we don't have anything but tertiary disinfected water. Am I missing something?

(12)

In paragraph 11, I'm not sure what is involved in the backflow testing, so maybe someone could help me out on that--how many devices do we have, where are they, what needs to be done, how much does it cost? Remember, I have to sell this to a bunch of HOA's, and they will ask me this stuff.

(13)

In paragraph 14, while I understand the need for Cross Connection control, why do we need a "plan". Isn't the system physically constructed so that there will not be any cross connections? If so, I think we should just annually certify that we have made no physical changes to the system, and leave it at that. If the system is not physically as I think it is, then I will need to understand a bit more about cross connection plans.

(14)

As to paragraphs 15-19, my question is: what if it does? We don't treat the water, we have to use it, and we can only sprinkle. If it has an odor, or organic constituent concentrations, or whatever, what are we supposed to do? These seem to me to be treatment problems, not application problems, but maybe I'm missing something here. Let me know what we are expected to do if we run into any of these problems.

(15)

In paragraph 20, this is the same as my comments above about the monitoring wells. I don't know anything about them or why they aren't installed already.

(16)

Paragraphs 21 and 22 refer in part to crop irrigation, but we don't do that.

(17)

Paragraph 23 requires the Distributor (County) to submit an annual report. Do the HOA's need to be concerned with this?

(18)

Paragraph 25 refers to the Discharger, but I'm not sure if that means the County or the HOA's. But I do like the concept of a waiver, which may be the way to handle most of the reporting requirements. I would think that if we test or report once a year, and don't do anything to change the irrigation system, annual testing will alert everyone to potential nutrient or salt problems well in advance. (What we do then is a different question...)

(19)

I assume the rules and regulations under paragraph 29 will be developed by the County? The system is already built out and operating, so I'm not sure that adding rules and regulations will add much, but I understand the bureaucratic requirements to document the file. I wish we could just say that we'll turn on the sprinklers as needed and not overwater, but I know that's a different world.

(21)

In paragraph 33, there is a concept of legally binding contracts. The problem with this is that the HOA's are prohibited by their organizational documents (and perhaps by statute, even) from entering into any contract for more than a year without a homeowner vote. That is why we need a vote on the association, as you may recall. We weren't planning on any contracts beyond the association, so I haven't thought this one through.

(22)

In the monitoring and reporting requirements draft, at page 6, you require a list of the reuse sites with names, locations, etc. and the name of the hydrologic areas underlying each site. Can we just use the water balance list and certify whether or not we've added or subtracted any areas?

(23)

Paragraph 2 calls for a scaled map and monthly application rates in acre-feet and gallons for each recycled water use area in a format consistent with the water balance study. I don't see how that will be possible, and I don't see my HOA's buying into a system with that much detail. As mentioned above, my view is that we will have the system working mostly automatically on timers, and the key thing for us is to make sure that the pond levels are where they should be at various times of the year. So, I would prefer a practical approach. With the number of different entities, and some of them not even HOA's, I don't know how we would collect anything other than aggregate data anyway.

Those are my thoughts. Sorry for the length.

Bob Taylor

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF DECEMBER 1, 2006

Prepared on November 6, 2006

ITEM NUMBER: 9

SUBJECT: Re-issuance of Waste Discharge and Water Reclamation Requirements for Las Palmas Ranch Residential Development, Monterey County – Order No. R3-2006-0041

KEY INFORMATION

Location: 21702 River Road (G17), Salinas, Monterey County  
Type of Discharge: Disinfected tertiary recycled water  
Permitted Flow: 200,000 gallons per day (gpd)  
Average Flow: 196,000 gpd (30-day average)  
Type of Treatment: Tertiary with disinfection  
Disposal Method:  
Wastewater: Reclamation via landscape and native vegetation irrigation  
Solid Wastes: Offsite disposal of biosolids at Monterey Regional Landfill  
Existing Orders: Waste Discharge and Water Reclamation Requirements Order No. 91-14  
This Action: Adoption of Supplier and Distributor Master Reclamation Requirements

SUMMARY

The proposed Order provides supplier and distributor master reclamation requirements for the Las Palmas Ranch Water Reclamation Plant and associated reclaimed water use facilities within and around the Las Palmas Ranch development. The proposed Order updates the previous Order in that it contains individual supplier and distributor requirements and allows for the addition of new reuse areas per a permit based system of rules and regulations in accordance with the uniform statewide water reclamation criteria found in Title 22 of the California Health and Safety Code. This revised Order correctly identifies the permittees, provides up-to-date requirements in accordance with changes in legislation, and allows the addition of new reuse areas to meet disposal capacity and reuse needs.

BACKGROUND

California American Water (the "Supplier") owns and operates a wastewater collection, treatment,

recycling, and reclaimed wastewater storage facility (the "Facility" or "Las Palmas Ranch Water Reclamation Plant"). The Facility was historically owned and operated by Monterey County Department of Public Works, the current permit holder, until approximately April 2003. The County formerly acted as both the supplier and distributor of the recycled water.

The Supplier provides wastewater collection and treatment services to the Las Palmas Ranch residential development and supplies disinfected tertiary recycled water to numerous recycled water users primarily consisting of eleven individual Las Palmas Ranch homeowners' associations (HOAs), Monterey County, and two private entities (the "Users") for irrigation of common green space areas and parkways. The Supplier is also a User.

The reclaimed wastewater distribution and irrigation systems for the various reuse areas are owned and managed by the various Users. An agreement between Users is pending for the establishment of a Las Palmas Ranch Irrigation Association for the



management of the recycled water distribution systems and reuse areas, and the application of recycled water. However, ongoing discussion between the Users regarding the content of the agreement along with procedural and timing issues have delayed the agreement since discussions began in 2003. Therefore, a designated distributor for the recycled water does not exist.

Monterey County Public Works (the "Distributor") intends to act as the permitted Distributor to manage the distribution and application of recycled water and facilitate the implementation of additional reuse areas until the various Users establish the Las Palmas Ranch Irrigation Association (Irrigation Association) and assume the Distributor role.

This Facility was formerly permitted under Waste Discharge and Water Reclamation Requirements Order No. 91-14 issued to Monterey County (Monterey County Service Area No. 72) by the Board on January 11, 2001. The existing waste discharge requirements order is over 15 years old and is in need of revision to correctly define facility ownership and management, and to establish specific recycled water producer and distributor requirements consistent with current regulations and policies. In addition, the existing Order restricts the application of disinfected tertiary recycled water to specific areas. Water balances and historical shortfalls in irrigation disposal capacity indicate that additional reuse areas are needed to adequately manage recycled water flows.

Order No. R3-2006-0041 (proposed Order) significantly updates the waste discharge and water reclamation requirements and makes them consistent with state requirements for the treatment and application of disinfected tertiary recycled water. The proposed Order does not limit the application of recycled water to specific areas and allows the Distributor to add new reuse areas in accordance with Title 22, Division 4, Chapter 3, Sections 60301-60355 of the California Code of Regulations (CCR) and a permit-based program of rules and regulations for the recycled water Users.

The following discussion briefly outlines the format of the proposed Order and significant changes. Findings of the proposed Order address the various aspects of the Facility and applicable regulations for reclamation facilities in detail. A discussion of the compliance history is not

warranted as the Facility has remained in compliance with the existing Order with the exception of authorized emergency discharges of disinfected tertiary recycled water to emergency irrigation fields and the storm water system as noted in the findings of the proposed Order.

### PROPOSED ORDER

The proposed Order substantially overhauls and updates the existing order and associated monitoring and reporting program. The proposed Order is divided into Supplier and Distributor specific requirements with general prohibitions, specifications and provisions applicable to both parties.

The proposed Order is broken down as follows:

- Prohibitions
- Specification
- Supplier Requirements
  - Flow and Effluent Limitations
  - Disinfected Tertiary Recycled Water Limitations
  - Reclamation Facility Operational Requirements
  - Off-Specification Effluent Contingency Plan
  - General Requirements
  - Sanitary Sewer Overflows/Sewer System Management Plan Requirements
- Distributor/User Requirements
  - Reclamation Distribution System Requirements
  - Groundwater Limitations
  - Groundwater Monitoring Well Work Plan
  - Nutrient Management Plan
  - Salts Management Plan
  - Individual Recycled Water Use Permits
- Provisions

Significant changes to the proposed Order include:

- **Combined permit for Individual Supplier and Distributor Requirements** – The proposed Order contains both producer and distributor requirements that are the responsibility of the Supplier and Distributor, respectively.

Supplier Requirements

- **Wastewater Flow** – Supplier Requirement C.1 restricts 30-day average influent wastewater flows to 200,000 gpd (0.20 MGD). This is a slight increase from the previously permitted monthly average daily flow of 195,000 gpd. The increased flow limitation is based on findings indicating average daily influent wastewater flows to the facility are approximately 196,000 gpd, estimated buildout average daily dry weather flows are 199,300 gpd, and the Facility can handle flows in excess of the combined design peak daily hydraulic capacity of 235,000 gpd.
- **Effluent Limitations** – General effluent limitations were added for nitrate, sodium (in place of sodium adsorption ratio), sulfate and boron for consistency with the Basin Plan water quality objectives. The maximum daily effluent limitations for biochemical oxygen demand (BOD) and total suspended solids (TSS) of 25 mg/L were changed to seven-day averages. The monthly (30-day) average effluent limitations for BOD and TSS of 10 mg/L were retained from the previous permit. This change is more in line with the statistical evaluation of secondary treatment technology-based effluent limitations for BOD and TSS using monthly and weekly averages<sup>1</sup>. Although no tertiary treatment technology-based effluent limits for BOD or TSS exist, effluent data for the Facility presented in the findings of the proposed Order indicate the proposed BOD and TSS effluent limitations are technologically achievable.
- **Disinfected Tertiary Recycled Water Limitations** – Updated turbidity, coliform, and disinfection requirements excerpted from Title 22 of the California Code of Regulations for disinfected tertiary recycled water were added to the proposed Order.
- **Reclamation Facility Operational Requirements** – Detailed reclamation facility requirements excerpted from Title 22 were added to the proposed Order for the operation and maintenance of the treatment facility.

<sup>1</sup> 40 CFR Part 133.102 contains BOD and TSS 30-day and 7-day average minimum technology based effluent limitations for secondary treatment of 30mg/L and 45 mg/L, respectively.

- **Off-Specification Contingency Plan** – Requirements for the implementation of a contingency plan, (provided as part of the Distributor's ROWD application package) in the event effluent that does not meet the criteria, for disinfected tertiary recycled water is discharged to the effluent storage basins were added to the proposed Order.
- **Sanitary Sewer Overflows/Sewer System Management Plan Requirements** – Requirements for the implementation of a sewer system management plan were added to the proposed Order to establish procedures to track, mitigate and prevent overflows from the Supplier's collection system.

Distributor/User Requirements

- **Implementation of Additional Reuse Areas** – The proposed Order does not limit the application of recycled to prescribed areas. The Order allows the Distributor to develop and implement additional reuse areas as needed that meet the Reclamation Distribution System Requirements contained within the Order and are managed via individual recycled water use permits issued to the Users.
- **Reclamation Distribution System Requirements** - Detailed distribution system and use area requirements excerpted from Title 22 were added to the proposed Order for the design, operation and maintenance of the distribution system and application areas.
- **Groundwater Monitoring Well Work Plan** – The proposed Order requires the Distributor to submit a work plan for the installation of three additional (at a minimum) groundwater monitoring wells to evaluate groundwater quality in the vicinity of the phase II development area recycled water application areas. Three groundwater monitoring wells were originally required and proposed for this area that were never installed.
- **Nutrient Management Plan** – Specific requirements were added to the proposed Order requiring the Distributor to develop and implement a nutrient management plan for the application of recycled water to ensure it is applied at agronomic rates and will not result in

the leaching of nitrogen to the groundwater basin.

- **Salt Management Plan** - Specific requirements were added to the proposed Order requiring the Distributor to develop and implement a salts management plan to document salt loading and to evaluate and implement reduction measures as practicable to reduce salt loading to the groundwater basin.
- **Individual Recycled Water Use Permits** - The proposed Order requires the Distributor to develop a set of rules and regulations for the Users and apply them via Recycled Water User Permits for each individual User.

## MONITORING AND REPORTING PROGRAM

The proposed Monitoring and Reporting Program requirements are broken down as follows:

- **Supplier Requirements**
  - Water Supply Monitoring
  - Influent Monitoring
  - Effluent Monitoring
  - Storage Facility Monitoring
  - Solids/Biosolids Monitoring
  - Reporting
- **Distributor Requirements**
  - Recycled Water Use Area Monitoring
  - Groundwater Monitoring
  - Reporting
- **Supplier and Distributor Requirements**
  - Provisions
  - Implementation

Significant changes to the proposed Monitoring and Reporting Program include:

### Supplier Requirements

- **Water Supply Monitoring** - Boron was added to water supply monitoring parameters.
- **Influent Monitoring** - Weekly pH; monthly BOD, TSS, and total nitrogen; and semi-annual TDS, sodium, chloride, sulfate, and boron influent monitoring were added to the proposed Monitoring and Reporting Program.

- **Effluent Monitoring** - Weekly monitoring of chemical oxygen demand (COD) was eliminated and monthly monitoring of nitrate and ammonia, and continuous chlorine residual monitoring were added to the effluent monitoring requirements. The monitoring frequency for pH was increased from quarterly to weekly and the monitoring frequency for total nitrogen (along with nitrate and ammonia) was increased from quarterly to monthly.
- **Storage Facility Monitoring** - The proposed monitoring and reporting program requires the Supplier to conduct daily visual monitoring of the recycled water storage ponds and to provide weekly electronic updates to the Distributor and Users regarding the amount of available water and storage within the ponds.
- **Solids/Biosolids Monitoring** - The proposed Monitoring and Reporting Program requires the Supplier to provide an annual report of the amount of solids generated at the facility, with a description of the treatment, and documentation of ultimate disposal.
- **Reporting Frequency** - the Supplier reporting frequency was reduced from monthly to quarterly. The Supplier is still required to submit annual reports per the Standard Provisions.

### Distributor Requirements

- **Recycled Water Use Area Monitoring** - the proposed monitoring requirements require the Users (or Distributor) to conduct weekly metering of irrigation flows to each irrigation area receiving recycled water and weekly visual monitoring and record keeping documenting the application of recycled water is being conducted in accordance with the Order. In addition, the Distributor is required to conduct quarterly visual monitoring of the application areas. The Users are required to provide quarterly updates to the Distributor regarding daily irrigation flow rates, proposed system modifications, system peculiarities, and to verify employee training. These requirements also require annual testing of backflow prevention devices and cross-connection testing.
- **Groundwater Monitoring** - The Distributor is required to conduct groundwater monitoring from all monitoring wells (existing and

required) on a quarterly frequency for depth to water, total nitrogen, nitrate, pH, TDS, sodium, chloride, sulfate, and boron.

- **Reporting** – The Distributor is required to submit quarterly monitoring reports summarizing reclaimed water use. The Distributor is also required to submit annual monitoring reports compiling the previous years worth of irrigation flow, groundwater, and visual inspection data along with the required nutrient management plan and salt management program evaluations.

## ENVIRONMENTAL SUMMARY

These waste discharge requirements are for an existing facility and are exempt from provisions of the California Environmental Quality Act (Public Resources Code Section 21100, et. seq.) in accordance with California Code of Regulations, Title 14, Chapter 3, Section 15301.

## COMMENTS & RESPONSES

On September 25, 2006, the Central Coast Water Board notified the Supplier, Distributor, Users and interested parties of its intent to issue Supplier and Distributor Master Reclamation Requirements for Las Palmas Ranch and provided them with a copy of the proposed Order and an opportunity to submit written views and comments.

Water Board staff received written comments from Mr. Bob Taylor, HOA member and spokesperson for the proposed Las Palmas Ranch Master Association (Users and potential future Distributor), Monterey County Department of Public Works (as the permitted Distributor), and from Fuog Water Resources, Inc., on the Supplier's behalf.

Comments are addressed in this section with the comment letters attached for reference. The comments are referenced by number and are not repeated here for brevity except for the use of excerpted or paraphrased portions of the actual comments for clarification as noted. Related comments may also be grouped together for brevity. As such, the following consists only of staff responses to comments, and any subsequent staff recommendations or changes to the proposed Order.

**Mr. Bob Taylor, HOA member (spokesperson for Users and proposed master HOA potentially taking over Distributor responsibility from the County at some future date);** Written comments were received October 11, 2006, via electronic mail (Attachment 4) – staff has taken the liberty to number Mr. Taylor's comments):

### Staff Response to Comments 1, 4, 8, 9, & 14:

Staff directs Mr. Taylor to review the proposed (revised) Order findings. Particularly findings 49 through 60 (Basin Plan) and 77 through 100 (Evaluation of Nutrient and Salt Loading to the Groundwater Basin). Staff also provides the following general response to Mr. Taylor's general comments.

The protection of groundwater can be achieved by controlling the quality of the recycled water being applied and by controlling the application of the reclaimed water. Recycled water quality can be controlled via selection or treatment of the water supply, controls on the users of the water supply discharging to the wastewater collection system tributary to the reclamation facility, and treatment. The Supplier primarily has control over the treatment with only limited control over the collection system users and virtually no control over the water supply. On the other hand, the HOAs (Users of the recycled water, and potential Distributor) as the users of the water supply and wastewater collection system, have considerably more control over their water supply and what happens to the water before it gets to the reclamation facility primarily with regard to salts (please see finding 81 of the proposed Order).

The proposed Order contains appropriate and reasonable requirements regarding effluent quality and treatment system management to ensure the Supplier produces an effluent quality consistent with Title 22 requirements for disinfected tertiary recycled water and the Basin Plan. However, compliance with the Basin Plan also requires controls on how the recycled water is applied. As such, the proposed Order also contains appropriate and reasonable requirements for the application of the recycled water.

The Distributor and Users are responsible for the reclaimed wastewater they receive and are required to manage its use in accordance with the proposed

Order. If the Supplier were to assume the responsibility of discharging the recycled water it would assume the same responsibilities.

The Regional Board does not have the authority to require the Supplier to provide the recycled water to the Distributor and Users or require the Distributor and Users to take the recycled water supply. Accordingly, the relationship between the Supplier, Distributor and Users should be addressed in a legal agreement or contract between these parties.

No changes made.

Staff Response to Comment 2:

Comment noted. The Staff Report has been changed to reflect Mr. Taylor's comment.

Staff Response to Comments 3, 6 & 15:

Groundwater monitoring wells for the application areas were required as part of the original permit. The responsibility at the time would have been the original permit holder. However, we understand that there were potentially other agreements between the developer, County and HOAs regarding who would implement various requirements.

The proposed Order requires the Distributor to submit a groundwater monitoring plan, install the monitoring wells, conduct groundwater monitoring, and submit groundwater data. The Distributor (County) may choose to involve the HOAs as Users in the groundwater monitoring requirements. The County as the acting Distributor is responsible for these requirements until another Distributor is established and the permit is revised to reflect the new Distributor.

Staff Response to Comment 5, 19, 21 & 22:

The Monitoring and Reporting Program (Paragraph G.1 only requires weekly metering. The incorrect Staff Report reference to daily metering has been corrected.

The monitoring requirements in question along with the development of "rules and regulations" for the User were all established in the Order pursuant to California Water Code Section 13523.1. A new finding (Finding 47) was added to the proposed Order to clarify the basis of these monitoring requirements.

Please note that Paragraph G.1 of the Monitoring and Reporting Program allows for flow estimates based on irrigation run times and distribution system design flow rates. However, the aggregate flow estimate for all the reuse areas should be compared to the Supplier as delivered flows for verification.

Maps have already been prepared by the County delineating the reuse areas.

No other changes made.

Staff Response to Comments 7 & 20:

It is staff's understanding that County is only acting as the interim Distributor until the master association is formed and assumes the Distributor responsibilities detailed in the proposed Order. If the master association still intends to assume the Distributor role it will be required to submit an Application/Report of Waste Discharge General Information Form for Waste Discharge Requirements or NPDES Permit (Form 200). Upon receipt of the application the Water Board will revise the permit to reflect the change in Distributor. The master association will then be required to implement the Distributor requirements of the proposed Order.

Paragraph D.33 on page 27 of the draft Order was removed to avoid confusion with regard to the permitted Distributor. However, it should be noted that only public agencies can legally issue permits. As such, if the master association is named in a revised permit it will have to develop legally binding contracts for control of the Users in place of the recycled water use permits formerly issued by the County as the Distributor. This issue will be addressed at the time the Order is revised to name the master association as the Distributor.

Staff Response to Comment 10:

The Regional Board does not have the authority to limit the number of users based on approval by the existing Users or guarantee recycled water amounts to individual Users. The very nature of a master reclamation permit allows the Distributor (or Supplier as is not the case for the proposed Order) to add additional reuse sites in conformance California Water Code Section 13523.1. The criteria to add additional reuse areas and Users is based on the need for sufficient disposal capacity and compliance with the uniform statewide reclamation criteria found in Title 22 of the California Code of Regulation and the proposed Order as is appropriate to protect public health and the beneficial uses of groundwater. It is

the responsibility of the Distributor to manage the Users and document compliance with the Distributor and User requirements of the proposed Order. Any such restriction as noted in the comment should be spelled out in an agreement or legal contract between the Supplier, Distributor, and Users. However, if a master association assumes the Distributor responsibilities per the proposed Order it will be able to control the addition of new reuse areas and Users at its discretion as long as it complies with the proposed Order and uniform statewide reclamation criteria.

No changes made.

Staff Response to Comment 11:

This requirement was taken directly from California Code of Regulations, Title 22, Division 4, Chapter 3, Section 60310, regarding disinfected tertiary recycled water use area requirements.

No changes made.

Staff Response to Comment 12:

Please refer to the August 2005, RMC Engineering Report for Production, Distribution, and Use of Recycled Water, Monterey County Service Area No. 72 Las Palmas Ranch Residential Development, California American Water Company. This document contains maps and general descriptions of the recycled water distribution system and several references in the appendices regarding cross connection control and backflow prevention. However, this report does not document the domestic water supply system within the reuse areas for which the backflow prevention requirements apply. For more specific information regarding the number and location of backflow preventers within the water supply distribution system please contact Monterey County or your water purveyor. In addition, California Code of Regulations, Title 17, Division 1, Chapter 5, Group 4, Article 2, Sections 7601 through 7605 outline the backflow prevention requirements.

Staff Response to Comment 13:

Cross connection control plans are required pursuant to California Health and Safety Code, Division 104, Part 12, Chapter 5, Article 2, Section 16800 and California Code of Regulations, Title 17, Division 1, Chapter 5, Article 1, Section 7584.

Staff Response to Comment 16:

Paragraphs 21 and 22 refer to "crops or landscaping" irrigation. Title 22 allows the use of disinfected tertiary recycled for a number of uses including food crops and landscape irrigation. The Las Palmas Users primarily apply the recycled water to landscape areas, but Cal Am applies recycled water to natural grassy areas adjacent to the reclamation facility.

Paragraphs 21 and 22 have changed to refer to "food crops, vegetation or landscaping" for clarification and to broaden the reference.

Staff Response to Comment 17:

The HOAs should be concerned with the preparation and submittal of the annual report as both the Users and future potential Distributor as they are required to provide the data contained within the annual report.

Staff Response to Comment 18:

Paragraph 25 should refer to the "Distributor" and not the "Discharger." This has been corrected.

**Monterey County Department of Public Works (proposed Distributor);** letter received October 25, 2006 (Attachment 5)

Staff Response to Comment 1:

Staff directs the County to review the proposed (revised) Order findings. Particularly findings 49 through 60 (Basin Plan) and 77 through 100 (Evaluation of Nutrient and Salt Loading to the Groundwater Basin).

Please refer to the Natural Resources Conservation Service (NRCS), University of California Cooperative Extension (UCCE), and your local agricultural commissioner for references on preparing nutrient management plans.

No changes made.

Staff Response to Comment 2:

Please refer to "Staff Response to Comments 1, 4, 8, 9, & 1" made by Mr. Bob Taylor.

Staff Response to Comment 3:

The development of "rules and regulations" for the User were established in the Order pursuant to California Water Code Section 13523.1. A new

finding (Finding 47) was added to the proposed Order to clarify the basis of these monitoring requirements.

It was our understanding that additional reuse areas still needed to be developed or were in the process of being developed. In the event that the additional reuse areas were developed under the purview of the Department of Health Service's review of a site specific engineering report we understand your argument against the need for the required rules or regulations addressing the design and construction of new reclaimed water use facilities. However, the establishment and enforcement of rules and regulations by the Distributor is still warranted to ensure the maintenance of the reuse facilities and the use of reclaimed water is conducted in accordance with the uniform statewide reclamation criteria found in Title 22 of the California Code of Regulations. Subsequently, any maintenance or repairs to the existing reuse facilities should be conducted in accordance with the original design and construction standards.

No changes made.

Staff Response to Comment 4:

The County may issue a permit to, or establish a legal agreement with the master association stipulating the delegation of the Distributor requirements to the master association. However, the County would still be responsible and subject to enforcement for the Distributor requirements contained within the proposed Order. There needs to be a direct nexus between the permittee (Distributor) and the permit to ensure compliance with the conditions of the proposed Order and to facilitate enforcement for noncompliance. A water use or irrigation permit issued by the County to the master association will not provide the necessary nexus.

If this is unacceptable to the County the only other alternative is for the master association to apply to the Water Board as the new Distributor as outlined in response to Mr. Taylor's comments 7 and 20.

Paragraph D.33 on page 27 of the draft Order was removed to avoid confusion with regard to the permitted Distributor. However, it should be noted that only public agencies can legally issue permits. As such, if the master association is named in a revised permit it will have to develop legally binding contracts for control of the Users in place of the recycled water use permits formerly issued by the County as the Distributor. This issue will be

addressed at the time the Order is revised to name the master association as the Distributor.

Staff Response to Comment 5:

Please refer to "Staff Response to Comment 10" made by Mr. Bob Taylor.

Staff Response to Comment 6:

Staff believes paragraph D.14 already addresses this issue in conjunction with paragraph G.5 of the Monitoring and Reporting Program (and footnote no. 2).

**Fuog Water Resources Inc. (on behalf of the Supplier);** letter received October 26, 2006 (Attachment 6)

Staff Response to Comment 1:

Comment noted. Staff has changed finding 14 of the proposed Order to read as follows:

The Distributor's ROWD application indicates the Supplier intends to modify the Facility with the addition of emergency shutoff valves on the Facility storm drains and a redundant effluent transfer pump between the effluent storage ponds, and evaluate alternatives to or modify its existing chlorination facility.

Staff Response to Comments 2 & 6:

Staff did not cite any specific existing or required reuse area values given discrepancies contained within the noted RMC Engineering Report and uncertainties in the required amount of reuse areas. The text of the report indicates that approximately 40 acres of reuse areas have been installed and are in use. This is consistent with the original permit. However, the text of the report is consistent and indicates that an additional 40 acres are needed to meet build out flows. The fact remains that additional reuse areas are needed to handle the existing recycled effluent flows. However, it should be noted that although the water balance is based on conservative assumptions, the actual production and utilization of recycled water is highly dependent on the management of the reuse facilities and seasonal variations in rain intensity and timing. For this reason staff is reluctant to add any reuse area values to the Proposed Order that may be construed as approval of the water balance or limits on the extent

of allowable reuse area. As written, the proposed Order allows for additional reuse areas as required to meet the demand for disposal.

No changes made.

Staff Response to Comment 3:

The reference to the 400-foot aquifer was provided for comparison only. Finding 88 of the proposed Order clearly states that the water quality objectives for the 180-foot aquifer will be applied to the discharge.

No changes made.

Staff Response to Comment 4:

Footnote 22 of paragraph 7 allows for alternative disinfection criteria pursuant to Title 22.

Footnote 'g' was added to the effluent monitoring table in Monitoring and Reporting Program Requirements Order No. R3-2006-0041 for total chlorine residual allowing for alternative monitoring requirements for ultraviolet disinfection.

Staff Response to Comment 5:

The Supplier regularly forwards "Las Palmas Weekly Irrigation Log" spreadsheets to staff via electronic mail. Review of the provided 'weekly logs' indicates the Supplier has been compiling and distributing weekly water use data provided by the Users and storage reservoir level data since at least January 2006. Staff feels that weekly communication between the Supplier, Distributor and Users is warranted given the apparent historical lack of communication between the Supplier and Users and shortfalls in available reuse area. Weekly communication will ensure sufficient storage capacity is available at the reclamation facility to protect it from flooding the treatment works, reduce the likelihood of emergency discharges, and enable both parties to better gauge the balance between supply and irrigation needs.

No changes made.

Staff Response to Comment 7:

Staff did not specify an implementation schedule because the completion of the additional reuse areas

is not fully within the control of the Supplier, Distributor, or User. Although, the Supplier, Distributor, and Users are all in support of the additional reuse areas, staff understands that it is ultimately the developer's responsibility to complete them per the county use permit. In addition, potential delays in engineering report preparation and review along with bidding activities make it difficult to accurately assess achievable time schedules. As such, staff is reluctant to establish enforceable compliance schedules for activities beyond the control of the permittees that may not be achievable. It should be noted that the County has stepped forward in good faith as the Distributor to facilitate the timely implementation of additional reuse areas on behalf of the Supplier and Users. Historical delays in adding new reuse areas has been due in part to the former permit restricting reuse areas to those at the time of permit issuance and the lack of a Distributor to oversee implementation.

No changes made.

## ADDITIONAL CHANGES

An additional provision (paragraph D.26) was added to the Nutrient Management Plan requirements allowing for the application of recycled water in excess of the nutritive requirements of the receiving vegetation. This variance is allowable on a case-by-case basis upon request by the Distributor and approval by the Executive Officer given the outlined conditions are met.

## CONCLUSIONS

Staff is concerned regarding the appropriateness of HOAs managing wastewater treatment and disposal-related facilities and activities. Based on experience with other HOA-managed facilities in our region we see that HOAs generally do not have the requisite technical experience and management structure to maintain and operate such facilities. In addition, HOAs can be deadlocked on important association voting issues, and are in conflict of interest as fee payers when it comes to raising fees to fund needed facility maintenance and upgrade costs. Consequently, we are concerned how effectively an Irrigation Association comprised primarily of 11 different HOAs will be able to implement the Distributor requirements contained within the proposed Order. The best outcome would be for the Irrigation Association once it takes over the Distributor role to adopt and implement the



management structure established by the County while acting as the interim Distributor

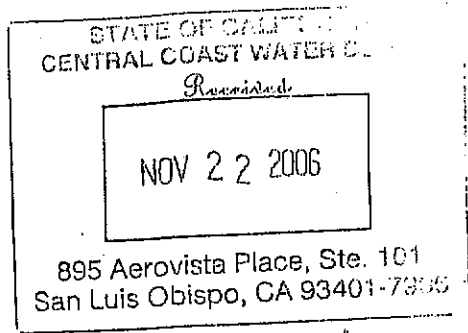
Notwithstanding the above noted concern we are confident the proposed Order clearly outlines the supplier, distributor and user responsibilities per applicable regulations, and will serve as a working document for the management of the recycled water facilities. We are also confident that implementation of the proposed Order will be sufficiently protective of water quality while allowing for the development of additional reuse areas to meet disposal and reuse demand.

### RECOMMENDATION

Adopt Order No. R3-2006-0041 as proposed.

### ATTACHMENTS

1. Supplier and Distributor Master Reclamation Requirements Order No. R3-2006-0041
2. Supplier and Distributor Monitoring and Reporting Program Requirements Order No. R3-2006-0041
3. Waste Discharge and Water Reclamation Requirements Order No. 91-14 and Monitoring and Reporting Program No. 91-14
4. October 11, 2006, electronic mail from Mr. Bob Taylor re: Las Palmas draft Order.
5. October 25, 2006, letter from Monterey County Department of Public Works
6. October 26, 2006, letter from Fuog Water Resources, Inc.



19242 Dovewood Court  
 Salinas, CA 93908  
 831-422-2611 (office)

November 22, 2006

Central Coast Water Board  
 895 Aerovista Place, Suite 101  
 San Luis Obispo, CA 93401-7906

*sent by facsimile to: 805-543-0397*

Re: Proposed Order No. R3-2006-0041  
 December 1, 2006; Agenda Item #9-Las Palmas Ranch Water Reclamation Plant

Dear Board Members:

I am a homeowner in Phase II of the Las Palmas Ranch (LPR) development outside Salinas. I have served as president of the LPR Master Association No. 2, and I currently remain on the board of that Association. You may recall that I appeared before your Board in February 2005 when you met in Salinas, at a time when the storage ponds at the treatment plant were full, and emergency discharges needed to be made.

I am writing to you because my schedule may not allow me to attend your meeting on Friday, December 1. The proposed order, in my opinion, has significant practical and legal problems. Some of these are based upon what appears to be a misunderstanding of the situation at Las Palmas. As much as I would like to be done with the multi-year evolution of this matter, I believe the appropriate action for your board at this time is to direct staff to rework the order so that it addresses and resolves the practical and legal issues inherent in the current proposal.

The overall background and structure of the system at LPR is this: LPR is a residential development of about 1000 homes, built in two major phases, with the second phase further broken down into ten neighborhoods. Originally, a County Service Area (CSA) was established to own and operate the treatment plant and collection system, and to control the discharges within the CSA. The treatment plant serves the LPR development area exclusively. The initial WDR and planning documents called for 42 acres of landscaping to serve as sprayfields, in order to fully balance the production of the treatment plant at full buildout (the development is now fully built out).

Unfortunately, at buildout there was a deficiency in the sprayfield acreage, with surveys indicating only about 26 acres of usable landscaping. (It serves no purpose to examine how this happened.) Because of this deficiency, every year during the rainy season, the storage ponds at the plant would fill up, and emergency steps would need to be taken to prevent overflow into the plant. These were very uncomfortable times for all involved.

Item No. 26 Supp. Sheet Attach 5  
 July 6, 2007 Meeting  
 Executive Officer Report

Complicating the matter was the fact that the County of Monterey, over the objections of the homeowners, opted to sell the treatment plant to Cal-Am, thus separating control of the treatment function from control of the discharge function. While the county may have had its reasons for the sale, it served to complicate relations among the various parts of the system, which formerly had been unified through the CSA.

So, for the last 3+ years, the homeowners have been prodding all those involved to get two things accomplished: 1) we needed more acreage for sprayfield and 2) we needed a formal working relationship with Cal-Am as operators of the plant. In order to get more acreage the initial WDR needed to be amended. Because the plant operator and dischargers were separate, your staff wanted to redo the entire WDR to separate the treatment and discharge conditions. This, in turn, has led to the current proposed order you have for consideration on your calendar.

In this process, DHS has approved the location and installation of about ten additional acres of landscaped sprayfield (five of which are currently in place, and five of which are being installed currently), and the intermittent use of several acres of native grasses.

So, first, there are some items which need to be brought to your attention. After several years of negotiation, and relationship building, you should know that there is now a balance in place between the treatment plant and the irrigation system which uses 100% of the plant's production. This is due, in part, to the approval of the area of adjacent native grass fields for intermittent discharge of recycled water. Using this area sparingly in the early spring has enabled us to avoid the fall/winter overflow storage problems of previous years. The developer is in process of installing five additional acres of turf within the development (all approved by your staff and DHS), which will diminish the role of the native grass area to an emergency outlet in severe seasonal events (such as a 100-year storm season). The system in place will be able to handle any single storm event quite easily.

Second, there has been significant improvement in the communication mechanism between Cal-Am as plant operator and the HOAs as users. We receive regular reports of water levels in the two storage ponds and can easily translate that into our irrigation scheduling. We now know what levels impact the plant capacity adversely, and we are able to regulate our usage to avoid those levels. You should note that this information does not require any data on gallons per day or otherwise. The only significant information is the water level in each pond, measured in feet from the bottom of the pond. (For example, there are presently 5 feet of water in the upper pond and .5 feet in the lower pond. We plan to use this water to bring on the new acreage referenced above, and then bring the upper pond to 0 feet to facilitate Cal-Am's dredging of that pond by year's end.)

Third, negotiations are complete among the county of Monterey, Cal-Am and the principal HOAs regarding the necessary contractual relationships to document the existing working relationship. The remaining contingency is an Order from your Board which is practical and enforceable. That Order is currently the principal hurdle facing completion of the process.

Central Coast Water Board  
Page 3  
November 22, 2006

This brings me to the misunderstandings which I believe underlie the proposed Order. The Order as proposed will make matters worse, rather than better, and will prevent satisfactory conclusion to this very long process.

1. As to the comment on page 5 of the staff report, I am not a spokesperson for the "proposed Las Palmas Ranch Master Association". I am a homeowner in LPR Phase II. I am on the board of the LPR Master Association No. 2, and formerly served as president of that board. The proposed "association" is actually titled the Las Palmas Ranch Irrigation Association, and has yet to be formed. It will include 11 legally separate HOAs as well as Cal-Am (a public utility), the Kinship Center (a charitable non-profit agency) and Mr. and Mrs. Persall (private property owners), each of whom own land currently used to discharge recycled water through dedicated sprinkler systems. The staff comment indicates a confusion between the Master Association (which is the name of two separate HOAs—one in Phase I and one in Phase II) and the Irrigation Association. The Irrigation Association, when formed, will not be a HOA, and will have specific powers and duties spelled out by contract.

2. Also on page 5, in responses to Comment 1,4, etc., the staff notes that

the HOAs (Users of the recycled water, and potential Distributor) as the users of the water supply and wastewater collection system, have considerably more control over their water supply and what happens to the water before it gets to the reclamation facility primarily with regard to salts....

This statement is simply not true. Other than a community pool and associated restrooms in Phase II, the HOAs do not use any water except for landscape irrigation. The HOAs do not use the wastewater collection system. The water supply and collection system are used by individual homeowners on their own separate parcels. The collection system mains are owned and maintained by Cal-Am. The HOAs have absolutely no control over the water supply or salts or anything else. In fact, when the HOA in Phase I attempted to regulate water softeners, there was litigation which resulted in an order prohibiting such regulation. In my opinion, the staff report assumes that the HOAs at Las Palmas are akin to condominium developments, and we most decidedly are not. The HOAs do not regulate homeowner behavior on their own lots when it comes to water use. Each homeowner is supplied and billed separately by California Water Service (not Cal-Am, by the way).

So, in LPR, there are about 1000 homes, producing wastewater into the collection system owned and controlled by Cal-Am. Cal-Am treats the water in Cal-Am's plant. Cal-Am stores the water in two storage ponds (owned and maintained by Cal-Am). The first and only time the HOAs have anything to do with the water is when the sprinklers come on to irrigate the landscaping. The HOAs (and the other three users) take all the water produced by the plant, and are prohibited from doing anything with it but sprinkling it on the landscaping through the dedicated irrigation

Central Coast Water Board  
Page 4  
November 22, 2006

system already in the ground.

If the Order is adopted as proposed, requiring the HOAs to control individual homeowner usage, that portion of the order will be legally unenforceable, as the HOAs do not have that authority.

In summary, the HOAs receive the recycled water "as is". The HOAs have absolutely no control over the quality of that water, and have but one option in using the water, namely, to sprinkle it on the lawns. That's it.

If there is a quality concern, it should be addressed to the Supplier (Cal-Am) and it is my understanding that Cal-Am agrees with this position. If there is a control of potable water usage concern (e.g. water softeners), that can only be addressed by the County, since it is the only entity with the legal authority to do anything. It is my understanding that the County agrees with this position also. I respectfully request that you consider revising the order to delete the quality and control requirements on the Users.

3. The final issue regards monitoring and reporting. The standard conditions require weekly quantity records and quarterly reporting. This will create an unnecessary administrative nightmare. The staff report dismisses this nightmare by suggesting that flow estimates and sprinkler run times will be sufficient. This is not what is contained in the proposed order.

To illustrate the extent of the nightmare, there are approximately 100 recycled water use areas within Las Palmas. Section I.2. of the Monitoring and Reporting Requirements attached to the order calls for the quarterly submittal of:

c. A table summarizing monthly recycled water application rates in acre-feet and gallons for each recycled water use area in a format consistent with Exhibit B - Water Balance Study, of the August 2005, RMC, Engineering Report, provided as part of the Distributor's November 17, 2005, ROWD application.  
(Emphasis added)

I have attached a sample of the Water Balance Study so that you can appreciate the degree of specifics required under the proposed Order. Please also take note of the fact that none of the irrigation parcels is metered. The proposed reporting requirements are not only burdensome and unnecessary, they are practically and physically impossible.

As I indicated above, the system works quite well now using the pond levels as the determinant for water usage. I would respectfully suggest that you revise the Order to allow an administrative waiver by the Executive Officer to provide that the Supplier (Cal-Am) report pond levels at quarterly intervals and the Users certify that they have undertaken no modifications or exceptional uses of the existing sprinkler systems in the reporting period. The Users can also certify that no unpermitted discharges have occurred during the reporting period.

Central Coast Water Board

Page 5

November 22, 2006

I believe this modification will satisfy the practical and legal concerns of all parties.

In conclusion, I would urge you to consider several things in your deliberations. The system is now operating properly, compared to the situation over the years. It is practical and effective. The real world experience of the parties indicates that pond levels are the crucial measurements required to insure continued practical and successful operation of the system. The HOAs have no control over the water supply or water treatment. The HOAs are required to sprinkle all of the plant output, and are prohibited from doing anything else. The development will very shortly have sufficient sprayfield capacity to handle the plant flows as originally planned. The development is fully built out. The sprinkler systems are already in place, with many of them in operation for more than 10 years. Everything has been inspected by your agency as well as the DHS.

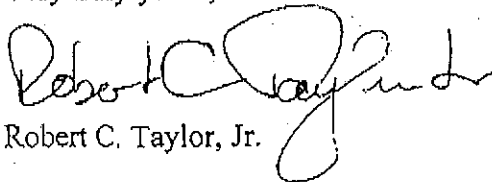
It seems to me that a sensible and workable Order, at least as far as the Users are concerned, would require usual and customary irrigation of the landscaping, maintenance of satisfactory pond levels, and reporting of any exceptional circumstances. For those periods where the system just operates normally as it has year in and year out, reporting should be limited to that fact. The system in this regard is self balancing: at Christmas, the ponds need to be near empty and in May they should be near capacity. It really is as basic as that.

To add the monitoring and reporting requirements as outlined in the Order will dismantle all the good, hard work to date. Although I do not and cannot speak for them, I doubt that the various HOAs will agree to take over the WDR from the County with the present requirements. (By state law and governing CC&R's, a homeowner vote will be needed to do this.) I certainly could not recommend it, as the Order as drafted cannot be complied with.

Please recognize the significant effort which has occurred to bring the system to the workable place it is now. Do not undermine it with an excessively complicated Order. I hope that you will direct the staff to revise the Order to allow for executive waivers which will enable the parties to continue on the successful path they are on, without derailing all the progress which has been made.

Thank you for your consideration.

Very truly yours,



Robert C. Taylor, Jr.

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION

SUPPLEMENTAL SHEET FOR REGULAR MEETING OF DECEMBER 1, 2006  
Prepared on November 30, 2006

ITEM NUMBER: 9

SUBJECT: Re-Issuance of Waste Discharge and Water Reclamation Requirements for Las Palmas Ranch Residential Development, Monterey County – Order No. R3-2006-0041

**COMMENT LETTER**

Staff is providing the attached November 22, 2007 comment letter from Mr. Robert Taylor for the record. An email from Mr. Don Meister in support of Mr. Taylor's letter is also attached for the record. The following discussion provides a written response to Mr. Taylor's comments.

**STAFF RESPONSE**

Staff is unclear regarding the specifics of Mr. Taylor's concerns as to why the proposed Order "as drafted cannot be complied with" as a result of unspecified "practical and legal issues." The proposed Order does not require anything above or beyond what is required by law or reasonable for the protection of water quality and is consistent with waste discharge requirements for municipal wastewater discharges to land in the Central Coast Region. Staff believes the difficulty in managing the supply and distribution of the reclaimed water within the Las Palmas Ranch Development is inherent in the complexity of the relationships between the various entities involved and not that of an "excessively complicated order." Mr. Taylor alludes to this point in his description of the Las Palmas Ranch background and structure.

Two separate entities independently manage the supply and distribution of reclaimed water, respectively, without a legal contract. Furthermore, the entity currently responsible for the distribution and use of the reclaimed water consists of eleven legally separate homeowners' associations (HOAs),

California American Water (Cal-Am), Monterey County, private property owners, and a non-profit agency. These entities are also currently managing the system informally without a legal contract. These entities have been negotiating a contract for over three years and it is questionable as to how effective a contract will be in unifying the management structure required to implement the unified statewide water reclamation criteria pursuant to Title 22 of the California Code of Regulations (Title 22) and Chapter 7 of the California Water Code. Staff is pleased to hear that negotiations are complete among the various entities, but a ratified contract has yet to be seen. This is why Monterey County has come forward to act as the distributor until legal contracts are in place between the supplier and users, and between the various users.

Mr. Taylor indicates the finalization of the contract is contingent upon the issuance of a "practical and enforceable" order. The issuance of a revised order has been on hold for over three years because there has been no legal entity to implement the distributor requirements. During this time the various stakeholders have been requesting a revised permit that would allow the implementation of additional reuse areas. Staff and the various stakeholders have been at an impasse regarding which comes first, the establishment of a legal entity to manage reclaimed water distribution and use or the issuance of a revised permit that correctly identifies a legal entity responsible for reclaimed water distribution and use. Monterey County has stepped forward as the interim distributor in an effort to break the deadlock and address the reuse area shortfalls. In an effort to

expedite the implementation of additional reuse areas staff has allowed the development of new reuse areas in coordination with the California Department of Health Services so they will be available for use once the proposed Order is issued.

Mr. Taylor appears to be under the impression that the supply and use of the reclaimed water will take care of itself as it is "self balancing." This is simply not the case and this type of management philosophy is not in accordance with Title 22 or the Water Code. In addition to the noted shortfalls in approved reuse areas, staff believes the historical occurrence of emergency discharges is also due in part to a lack of communication between the supplier and various users as a result of no formal management structure being in place. Mr. Taylor also alludes to this in his letter. The fact remains that no legally defined structure is in place to manage the supply, distribution, and use of the reclaimed water within the Las Palmas Ranch development. As such the distribution and use of reclaimed water within the development has gone essentially unregulated for over three years with no clear nexus between the existing reclamation requirements and the supplier, distributor, and individual users. Monitoring and reporting has been conducted in good faith by Cal-Am in accordance with the existing permit since 2003; whereas the users have not been required to document the distribution and use of the reclaimed water pursuant to applicable requirements in Title 22 and the Water Code. Historically, the individual users have only been concerned with whether their landscape areas are kept green. Mr. Taylor appears to be under the impression that the master irrigation association, once formed for management of reclaimed water distribution and use, should be entitled to the same level of non-oversight afforded it under the existing permit and lack of management structure.

Title 22 and the Water Code require a management structure be in place to implement water recycling and that monitoring and reporting requirements be imposed to document compliance with the applicable requirements for suppliers, distributors, and user alike. Aside from the distributor requirements specifying the implementation of nutrient and salt management programs, nothing within the proposed Order is above and beyond what has been required of other reclamation projects within the Central Coast

Region. However, it should be noted that other non-reclamation related waste discharge requirements for municipal wastewater discharges to land within the Central Coast Region do contain nutrient and salt management program requirements.

For comparison, Monitoring and Reporting Program No. 97-52 for Monterey County Water Resources Agency (Distributor for the Castroville Seawater Intrusion Project, which uses reclaimed municipal wastewater from the Monterey Regional Water Pollution Control Agency reclamation facility for irrigation purposes) requires much more stringent distributor reuse area monitoring requirements than those of the proposed Order. Whereas Order No. 97-52 requires daily visual inspection of the reuse areas and daily metering (with no variance for estimates), the proposed Order only requires weekly visual reuse area monitoring and weekly flow recording or estimates. For clarification the proposed Order does allow reuse flow estimates (see paragraph G.1 of the Producer and Distributor Monitoring and Reporting Program Requirements No. R3-2006-0041). Regardless of the minimum frequency of flow metering or estimating stipulated in the monitoring and reporting program requirements, the distributor is required to provide quarterly reports summarizing reclaimed water use flows pursuant to Water Code Section 13523.1(4). Without regular accounting of flows the distributor will not be able to comply with this requirement. Weekly accounting will ensure more accurate accounting of flows as individual landscape reuse area demand may change from week to week. It is reasonable to assume that the landscapers managing the reuse areas within the development are on a weekly maintenance schedule and that they regularly adjust the irrigation flows as required, based on visual observations of the irrigated areas. In addition, Cal-Am (the supplier) is currently providing weekly irrigation logs documenting holding pond capacity, influent flows, and effluent flows. Weekly accounting of reuse flows will enable a more accurate comparison with supply flows.

Staff acknowledges the discontinuity between the HOAs and the individual homeowner's use of the domestic water supply and wastewater collection system, as well as the HOA's legal obstacle in regulating individual homeowner water softener use. However, staff maintains that the master irrigation



association, via the HOAs, as the acting distributor can exert more control over the individual homeowners to reduce salt loading to the reclamation facility. Monterey County, as the proposed distributor, most certainly will have more leverage to do so through the existing Community Services Area No. 72. Although Cal-Am could also effectively leverage decreased homeowner dependence on water softeners through increased sewer and collection system fees, if it were able to get an increase approved by the California Public Utilities Commission, staff believes that the homeowners would rather be self regulated via the master irrigation association or HOAs to implement the prescribed salt management program.

Staff is unaware of any legal contract or agreement that requires the HOAs to use all of the reclaimed water produced by Cal-Am regardless of quality. In fact, it is staff's understanding the HOAs are relying on a good faith guarantee by the developer that they would always have the reclaimed water for irrigation purposes at no additional cost above their standard sewer fees. This is a considerable cost savings to the HOAs as they would have to pay for the use of their municipal water supply or install and manage their own onsite irrigation supply wells for common landscape area irrigation. Consequently, the HOAs are adamantly opposed to Cal-Am developing alternative disposal methods for the reclaimed water.

As the supply and distribution of the reclaimed water is owned and managed by separate entities, staff must regulate them individually via either a single master permit with separate supplier and distributor requirements as proposed, or two individual master reclamation requirement orders for the supplier and distributor, respectively. In either case the supplier and distributor requirements would remain unchanged. The only other alternative would be for Cal-Am to act as both the supplier and distributor. Based on staff's previous correspondence with various stakeholders, it is clear that this is not an acceptable alternative to the Las Palmas Ranch residents as they are afraid this will allow Cal-Am the ability to charge them for the reclaimed water.

Notwithstanding the above response, Mr. Taylor's comments are somewhat moot given Monterey County is named as the distributor in the proposed Permit and the various users have yet to form a legal

entity for the management of the distribution and use of the reclaimed water. Any concerns Mr. Taylor has regarding the pending irrigation association's legal authority to implement the proposed distributor requirements should be addressed at the time the order is revised to reflect the new distributor.

In conclusion, staff feels that Mr. Taylor's letter provides no specific reasons why the proposed Order cannot be complied with other than the fact that the various HOAs and homeowners may not be willing implement the proposed requirements under the pending master irrigation association. It is not staff's intent to derail any negotiations between the various stakeholders in establishing an entity comprised of the users for management of the distribution and use of reclaimed water. Staff maintains the proposed Order is consistent with applicable regulations for the supply, distribution, and use of reclaimed water, is consistent with other waste discharge requirements in the Central Coast Region, and is protective of water quality.

#### **ADDITIONAL CHANGES TO THE ORDER**

Staff proposes changing all the references in the Monitoring and Reporting Program Requirements, Order No. R3-2006-0041, from "Distributor" to "Supplier" to be consistent with the proposed Order and Water Code.

#### **ATTACHMENTS**

1. November 22, 2006, letter from Mr. Bob Taylor re: Proposed Order No. R3-2006-0041, December 1, 2006; Agenda Item #9-Las Palmas Ranch Water Reclamation Plant.
2. November 29, 2006, electronic message from Mr. Don Meister in support of Mr. Taylor's letter.