

### 3) "Consistent with Maximum Benefit to the People of the State"

#### Related concepts...

- a) Necessary to accommodate important economic or social development in the area in which the waters are located (*federal; 40CFR131.12-a-2*)
- b) Would result in substantial and widespread economic and social impact (*federal; 40CFR131.10-g-6*)

#### Factors to be considered...

- a) Maximum Benefit is determined on a case-by-case basis
- b) Past, present and probable future beneficial uses of the water; esp. including use for water supply
- c) Economic and social costs, tangible and intangible, of the proposed discharge compared to the benefits
- d) Ability to pay for the necessary treatment and whether imposing such costs will result in significant adverse impact on the community (several federal tools and templates are available for surface waters)
- d) Environmental aspects of the proposed discharge (esp. net effects on water quality in the region; example: preventing seawater intrusion or preserving critical habitat)
- e) Implementation of feasible alternative treatment or control measures to abate social costs of lower water quality
- f) Must consider "costs" to both the discharger and others affected by the discharge
- g) Cost savings "alone" are not an adequate justification; must also demonstrate how the savings are necessary to accommodate important social and economic development (note reference to federal regulations in interpreting state antideg policy; presumably applies to surface waters only)
- h) Reduction in water quality is spatially localized or limited (e.g. confined to the mixing zone)
- i) Reduction in water quality is temporally limited and will not result in any long-term deleterious effects on water quality
- j) Proposed discharge will produce only minor effects which will not result in a significant reduction of water quality (e.g. a single project uses less than 10% of available assimilative capacity or the cumulative effect of all projects uses less than 20% of available assimilative capacity in a given basin, sub-basin or management zone).
- k) The proposed activity has been approved in the General Plan of a political subdivision and has been subjected to adequate environmental and economic analysis in an EIR prepared as required under CEQA.
- l) EPA's Water Quality Standards Handbook (Chapter 5) provides additional guidance for evaluating socio-economic impacts related to meeting water quality standards in surface waters

Primary reference sources: 1) SWRCB's Guidance on Resolution 68-16, 1995; 2) SWRCB's Administrative Procedures Update 90-004; 3) SWRCB's Recycled Water Policy, 2009; 4) CWC §13241; 5) Asociacion de Gente Unida Por El Agua v. Central Valley Board, 210 Cal. App. 4<sup>th</sup> 1255

**3) "Consistent with Maximum Benefit to the People of the State" (continued)**

Proposed Strawman Decision Criteria for Demonstrating "Maximum Benefit to the People of the State"...

- A) Lower water quality is spatially-limited and/or a temporary condition. Example: deep-well injection projects where recycled water is stored for later extraction or providing additional recharge that will ultimately blend with and offset the discharge.
- B) Lowering water quality at one location will result in higher water quality in the same or another location such that there is a net improvement in water quality and beneficial use protection in the receiving water, watershed, region or state as a whole. Example: a groundwater clean-up project removes TCE, but the air stripping process increases the concentration of TDS.
- C) Lowering water quality will result in more effective protection of actual beneficial uses than would occur by imposing more stringent effluent limitations or prohibiting the discharge. Example: the discharge is coupled with a project to provide well-head treatment or alternate drinking water supplies where the MUN use is severely impaired.
- D) Lowering water quality would facilitate increased use of recycled water (particularly by displacing demand for potable water) and thereby increase the overall water supply in the watershed, region or state. Example: using recycled water for landscape or agricultural irrigation.
- E) Lowering water quality would facilitate increased recharge and storage to groundwater basins and particularly where the underlying aquifer is in an overdraft condition.
- F) Lowering water quality is necessary to accommodate important social and economic growth in the region particularly where more stringent effluent limitations or discharge prohibitions would result in widespread and substantial adverse socioeconomic impacts in the area.
- G) Lowering water quality would produce less adverse environmental impact than imposing more stringent effluent limitations or discharge prohibitions. Example: additional treatment results in significant cross-media waste streams (e.g. brines, greenhouse gases, etc.) or requires significant energy consumption without any corresponding reduction in risk to public health or the environment.
- H) Lowering water quality is necessary to preserve beneficial uses that may otherwise be lost if discharge flows are significantly diminished in order to comply with more stringent effluent limitations. Example: preservation of aquatic habitat or recreational resources in an ephemeral/intermittent stream.
- I) Allowing lower water quality in the discharge will reduce the rate at which water quality is already degrading (or is expected to degrade) in the receiving water. Example: creating barriers to groundwater migration or diluting contaminants in the vadose zone.
- J) Allowing lower water quality, in relation to the baseline condition, would actually improve existing water quality.
- K) Allowing lower water quality is necessary to prevent widespread and substantial adverse social or economic impact or to accommodate important social and economic development in the nation, state or region.
- L) Allowing lower water quality is necessary to protect infrastructure or industries deemed vital to national security, public safety, public health, or the environment.