

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2005-0700

FOR

COUNTY OF MARIPOSA
and
TOTAL WASTE SYSTEMS, INC.
MARIPOSA COUNTY MUNICIPAL SOLID WASTE LANDFILL
MARIPOSA COUNTY

This Order is issued to the County of Mariposa and Total Waste Systems, Inc., a California corporation, (hereafter jointly referred to as Discharger) based on provisions of California Water Code (CWC) Section 13304, which authorizes the Regional Water Quality Control Board, Central Valley Region (Regional Board) to issue a Cleanup and Abatement Order (Order).

The Executive Officer of the Regional Board finds that with respect to the Discharger's acts, or failures to act, the following:

1. The County of Mariposa owns, and Total Waste Systems, Inc., operates, a municipal solid waste landfill approximately 2.5 miles northwest of the unincorporated community of Mariposa in Section 16, T5S, R18E, MDB&M. The 40-acre facility contains one existing unlined waste management unit (Unit) covering 26 acres. The facility is regulated under Waste Discharge Requirements, Order No. R5-2003-0094 (WDRs), as a Class III waste disposal site for the discharge of nonhazardous municipal solid waste in accordance with Title 27, California Code of Regulations, §20005, et seq. (Title 27).
2. The facility is in a small canyon between northwest trending Mount Bullion Ridge and a smaller northwest trending ridge immediately south of the site. The ground surface slopes toward the southwest with elevations ranging from 2,290 to 2,500 feet above mean sea level. Site soils include the Hannecke Series, which are typically less than four feet thick and localized. The soils are underlain by serpentinite bedrock that outcrops at 25 to 50 percent of the site. The serpentinite occurs as hard resistant blocky masses and highly sheared and fractured nonresistant masses.
3. There are approximately 19 domestic wells and two industrial supply wells within one mile of the site. These wells range in total depth from 120 to 500 feet and are mainly within the residential area north-northwest (upgradient) of the site. An ephemeral surface spring driven by season precipitation has been observed near the toe of the southeastern slope of the Unit.
4. The *Water Quality Control Plan for the Sacramento River and San Joaquin Basins, Fourth Edition, 1998* (hereafter Basin Plan), designates beneficial uses, establishes water quality

objectives, contains implementation programs for achieving objectives, and incorporates by reference plans and policies adopted by the State Water Resources Control Board.

5. Surface drainage from the landfill is toward two on-site intermittent drainages that are tributaries of Horse Gulch, which is tributary to Agua Fria Creek in the Mariposa Hydrologic Area (538.00) of the San Joaquin Basin. Agua Fria Creek flows to Mariposa Creek, which enters Mariposa Reservoir 12 miles southwest of the site. The designated beneficial uses of these surface waters, according to the Basin Plan, include municipal and domestic supply, hydropower generation, contact and noncontact water recreation, warm fresh water habitat, preservation of rare, threatened and endangered species, and groundwater recharge.
6. State Water Resources Control Board Order No. 97-03-DWQ (General Permit No. CAS000001), amended 17 April 1997, specifies waste discharge requirements for discharges of storm water associated with industrial activities, excluding construction activities, and requiring submission of a Notice Of Intent by industries to be covered under the permit. Waste disposal at landfills, including inert disposal facilities, is considered an industrial activity requiring submission of a Notice Of Intent for coverage under the general permit if storm water is to be discharged off-site. The Discharger has submitted a Notice Of Intent and received a Notice of Applicability for coverage under the general permit.
7. Regional Board staff received information on 10 January 2005 from Mariposa County Environmental Health Services staff that solid and liquid wastes were being discharged off-site from the Mariposa County Landfill. Regional Board staff inspected the site on 11 January 2005 and observed solid wastes in and near the on-site ephemeral drainage just off-site from the landfill property. In addition, leachate from the landfill was observed draining into the on-site ephemeral drainage. These discharges are a violation of Prohibition A.4. of the WDRs, which states that the discharge of solid or liquid waste or leachate to surface waters or surface water drainage courses is prohibited.
8. Regional Board staff also observed wastes along the access road on the west side of the landfill property as far as the southwest corner of the facility property. The wastes were carried off from areas of exposed wastes on the northwest side of the landfill, apparently resulting from recent stormwater runoff. This unauthorized relocation of wastes is a violation of Discharge Specification B.2. of the WDRs, which states that discharged waste shall remain within the designated disposal area at all times.
9. Regional Board staff also observed significant erosion of the intermediate cover on the northwest side of the landfill. Daylighting of wastes was observed as a result of erosion. This exposure of waste violates Storm Water Provision XII.J of the "Standard Provisions and Reporting Requirements for Waste Discharge Requirements for Nonhazardous Solid Waste Discharges Regulated by Title 27 and/or Subtitle D (27 CCR §20005 et seq. and 40 CRF 258 et seq.," dated April 2000 (Standard Provisions), which states that cover materials shall be

graded to resist erosion as a result of precipitation [27 CCR §20365(f)]. Violations of this Storm Water Provision of the Standard Provisions is a violation of Provision G.4. of the WDRs, which states that the Discharger shall comply with the Standard Provisions, which are incorporated into the WDRs.

10. The unauthorized discharge may be attributed to insufficient intermediate cover in the area of the landfill from which the unauthorized discharge occurred. This lack of sufficient intermediate cover is a violation of Facility Specification VII.B. of the Standard Provisions, which states that intermediate cover consisting of compacted earthen material of at least twelve (12) inches shall be placed on all surfaces of the fill where no additional solid waste will be deposited within 180 days [27 CCR §20700(a)]. Noncompliance with this Facility Specification of the Standard Provisions is a violation of Provision G.4. of the WDRs.
11. During a facility inspection performed on 6 January 2004, Regional Board staff observed wastes off-site on the northwest side of the landfill that were carried off from areas of exposed wastes, apparently resulting from recent stormwater runoff. This discharge was a violation of Discharge Specification B.2. and Provision G.4. of the WDRs. A Notice of Violation (NOV) was issued to the Discharger on 9 January 2004 for the violations, which required the Discharger to submit documentation describing the reparations made to bring the facility into compliance with the WDRs. The Discharger complied with the NOV by the submission of a report dated 20 February 2004.
12. Section 13304(a) of the California Water Code provides that:

Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up such waste or abate the effects thereof or, in the case of threatened pollution or nuisance, take other necessary remedial action. Upon failure of any person to comply with such cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring such person to comply therewith. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the fact may warrant.

13. The Discharger is subject to this Order issued pursuant to Section 13304 of the California Water Code because: (1) the solid and liquid wastes described in the above findings are “wastes” as defined in California Water Code Section 13050; (2) as described in the above findings, the Discharger has discharged waste into waters of this state in violation of the WDRs; and (3) as described in the above findings, the Discharger has caused or permitted

waste to be discharged or deposited where it has and probably will be discharged into waters of the state and has created and threatens to create a condition of pollution or nuisance.

14. Section 13304(c)(1) of the California Water Code provides that:

If the waste is cleaned up or the effects of the waste are abated, or, in the case of threatened pollution or nuisance, other necessary remedial action is taken by any governmental agency, the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of waste within the meaning of subdivision (a), are liable to that governmental agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising the cleanup or abatement activities, or taking other remedial action. The amount of the costs is recoverable in a civil action by, and paid to, the governmental agency and state board to the extent of the latter's contribution to the cleanup costs from the State Water Pollution and Abatement Account or other available funds.

15. Section 13267(b) of the California Water Code provides that:

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste outside of its region that could affect the quality of waters of the state within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports.

16. The technical reports required by this Order are necessary to assure compliance with this Order and the waste discharge requirements, and to protect the waters of the state. Existing data and information about the site indicates that waste has been discharged or may continue to be discharged at the property, which is currently owned and operated by the discharger named in this Order.
17. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to Section 15321(a)(2), Title 14, California Code of Regulations. This Order specifically addresses remedial actions necessary to cleanup and abate the effects of material being discharged to waters of the State. Additional enforcement for violation of Waste Discharge Requirements Order No. R5-2003-094 and State Water Resources Control Board Order No. 97-03-DWQ will be considered.

18. Any person adversely affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with Title 23, CCR Sections 2050-2068. The petition must be received by the State Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions may be found on the Internet at <http://www.waterboards.ca.gov/centralvalley> or will be provided upon request.
19. Failure to comply with the provisions of this order may result in further enforcement action including, but not limited to, the imposition of Administrative Civil Liability pursuant to California Water Code Sections 13268 and/or 13350.

IT IS HEREBY ORDERED THAT, pursuant to Sections 13267 and 13304 of the California Water Code, the County of Mariposa and Total Waste Systems, Inc., their agents, successors, and assigns, shall comply with the following:

1. Clean up forthwith the waste that has discharged or threatens to discharge from the facility as described in the above findings and abate forthwith the existing and threatened effects of solid and liquid wastes discharged to surface waters or surface water drainage courses affected by the unauthorized discharge. "Forthwith" means as soon as reasonably possible, but in any event, no later than the compliance dates contained in this Order.
2. Compliance with No. 1 above shall include, but not necessarily be limited to, the following measures:
 - (a) **By 4 February 2005**, submit a report describing all tasks completed to clean up and abate the unauthorized discharge, including a description of the nature and extent of the discharge.
 - (b) **By 25 February 2005**, submit analytical results of any and all surface water and leachate samples collected during the course of the unauthorized discharge.
 - (c) **By 11 March 2005**, submit a report identifying all wells within 1,000 feet of the reaches of all surface waters or surface water drainage courses affected by the unauthorized discharge.
 - (d) **By 11 March 2005**, submit a report providing a survey measure of the thickness of intermediate cover in all areas of the landfill.
 - (e) **By 25 March 2005**, submit for Executive Officer review and approval a report that includes a work plan and time schedule for covering all waste such that all areas of the landfill requiring intermediate cover will be brought into compliance with Facility Specification VII.B. of the Standard Provisions.

- (f) **By 17 June 2005**, submit a final report providing a description of all remedial actions taken to cleanup and abate the effects of the unauthorized discharge of waste to waters of the State.
3. If requested, reimburse the Regional Board for reasonable costs associated with oversight of actions taken in response to this Order. **By 4 February 2005**, submit the name and address to be used for billing purposes for oversight charges.
 4. The Discharger must notify the Regional Board by the first business day following discovery of any and all impacts to domestic supply wells.
 5. If, for any reason, the Discharger is unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Executive Officer, the Discharger may request, in writing, an extension of the due date specified. The extension request shall include justification for the delay. An extension may be granted only by revision of this Order.
 6. Based on the findings of the reports submitted as directed by this Order, the Executive Officer may require and assign compliance dates for additional technical reports pursuant to California Water Code Sections 13304 and 13267 as necessary to either cleanup and abate the discharge or show that both beneficial uses of surface waters in the area and human health are not threatened by the discharge and will not be threatened by future releases.
 7. If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability. Failure to comply with a cleanup and abatement order or the dates specified may result in further enforcement actions, including actions under section 13350, 13385, and 13387 of the California Water Code, which allows for administrative civil liability up to a maximum of five thousand dollars (\$5,000) to twenty five thousand dollars (\$25,000) for each day of violation.

This Order is effective upon the date of signature.

original signed by

THOMAS R. PINKOS, Executive Officer

19 January 2005
(Date)