

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2008-0123

AMENDING WASTE DISCHARGE REQUIREMENTS ORDER NO. R5-2002-0076

FOR

DARKHORSE SUBDIVISION
DARKHORSE, LLC, DARKHORSE GOLF CLUB, LLC, AND ED FRALICK
WASTEWATER TREATMENT FACILITY
NEVADA COUNTY

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Regional Water Board) finds that:

1. On 26 April 2002, the Regional Water Board adopted Waste Discharge Requirements (WDRs) Order No. R5-2002-0076, prescribing requirements for the Dark Horse Wastewater Treatment Facility (WWTF). Darkhorse, LLC was named as the Discharger in the WDRs because it was constructing a domestic wastewater collection, treatment, storage, and disposal system to serve the wastewater needs of the Darkhorse subdivision, including the residential subdivision and a golf course.
2. Based on information provided by Owens Financial Group on 4 April 2008, Owens Mortgage Investment Fund, a California limited partnership, of which Owens Financial Group is a partner, made a loan to Darkhorse, LLC in order to assist it in completing the Darkhorse subdivision project. The loan was secured by a Deed of Trust covering the golf course property and the remaining 75 residential lots in the subdivision.
3. On 17 August 2007, Owens Mortgage Investment Fund obtained title to the Darkhorse Golf Club and the land underlying the Darkhorse Subdivision Wastewater Treatment Plant (WWTP) through a foreclosure sale, and transferred title of the golf course and WWTP property to Darkhorse Golf Club, LLC. Neither Owens Mortgage Investment Fund nor Darkhorse Golf Club LLC exercised control over the WWTF prior to 17 August 2007. On 27 September 2007, Owens Mortgage Investment Fund obtained title to 75 undeveloped residential lots. In February 2008, Owens Mortgage Investment Fund transferred title of the lots to Baldwin Ranch Subdivision, LLC, a California limited liability company established for the purpose of owning the residential property.
4. The 2002 WDRs prohibited discharge to the WWTF until it was completed and accepted by Nevada County Sanitation District. The WWTF has not been completed and therefore Nevada County Sanitation District has not accepted ownership of and does not operate the facility.
5. Based on information provided by Nevada County Sanitation District on 9 July 2008 and shown in Attachment A to this Order, 31 homes have been constructed and are connected to the sanitary sewer system. In addition, one other home is under construction and has a pending sewer permit.

6. Wastewater from these homes and the golf course restrooms is discharged to the collection system and to the Darkhorse Subdivision WWTP where it is partially treated (no disinfection) and stored in below ground tanks. The wastewater is trucked on an as-needed basis to the Lake of the Pines wastewater treatment facility. A Grade 5 treatment plant operator oversees the Darkhorse WWTP and wastewater hauling operations. The golf course also discharges wastewater to an on-site treatment (septic) system, which is not regulated by Order No. R5-2002-0076.
7. Based on discussions with Chad Fralick on 14 and 21 May 2008, Ed Fralick owns the land where the Phase I and II disposal areas and replacement disposal areas are located. These areas will be used for subsurface wastewater disposal (leachfields) once the Darkhorse WWTF is completed.
8. This Order amends the Dark Horse Subdivision WDRs Order No. R5-2002-0076 to (a) add Darkhorse Golf Club, LLC, and Ed Fralick as additional Dischargers to reflect the current ownership of the property and operation of the WWTF and collection system, (b) to modify Discharge Prohibition No. A.2 of the WDRs to allow the existing discharges to the collection system and WWTF, provided that the Dischargers continue to haul the wastewater offsite for disposal at a permitted wastewater treatment facility, (c) to modify a Provision regarding Revised Monitoring and Reporting Program No. R5-2002-0076, (d) to include a Provision requiring an update to the facility's spill response plan, and (e) to include a Provision requiring submittal of quarterly progress reports.
9. This action to amend Order No. R5-2002-0076 is exempt from the California Environmental Quality Act pursuant to Title 14, California Code of Regulations, Section 15301.
10. The Regional Water Board has notified the Discharger and interested agencies and persons of its intent to amend waste discharge requirements for this discharge and has provided them with an opportunity for a public hearing and an opportunity to submit their written views and recommendations.
11. The Regional Water Board, in a public meeting, heard, and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that Order No. R5-2002-0076 is amended and pursuant to sections 13263 and 13267 of the California Water Code, Darkhorse, LLC, Darkhorse Golf Club, LLC, and Ed Fralick, its agents, successors and assigns, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted there under, shall comply with the amended Order No. R5-2002-0076 as follows:

1. Finding 2 is amended as follows: Darkhorse, LLC; Darkhorse Golf Club, LLC; and Ed Fralick are hereafter collectively referred to as Discharger.
2. Discharge Prohibition No. A.2 in WDRs Order No. R5-2002-0076, is amended as follows: Discharge of wastewater to the WWTF or sanitary sewer system is prohibited until a Responsible Public Entity Nevada County Sanitation District obtains administration and

control of the WWTF. Notwithstanding this prohibition, the WWTF and sanitary sewer system may be used to collect, treat and store wastewater from: (a) the golf course restrooms, (b) the 31 homes constructed and connected to sewer system, and (c) the one home under construction with a pending sewer permit (see Attachment A to Order No. R5-2008-0123). The Discharger shall truck all such wastewater to the Lake of the Pines WWTF, or other facility authorized to treat and discharge domestic waste, for final treatment and disposal.

3. Provision No. F.2 in WDRs Order No. R5-2002-0076, is amended as follows: The Discharger shall comply with the Revised Monitoring and Reporting Program No. R5-2002-0076, which is part of this Order, and any revisions thereto as ordered by the Executive Officer.
4. Provision No. 24 shall be added to WDRs Order No. R5-2002-0076 as follows:
24. By **1 November 2008**, the Discharger shall submit an update to the May 2003 Sanitary Sewer Collection Operation, Maintenance, Overflow Prevention, and Response Plan as required by Provision No. F.9 of the WDRs. At a minimum, the updated plan shall include: (a) proper notification procedures so that the primary responders, regulatory agencies and other affected entities (e.g. public health agencies, Regional Water Board, water suppliers, etc.) are informed of all sanitary sewer overflows in accordance with the California Water Code, other State law, and the WDRs, (b) procedures to ensure that appropriate staff and contractor personnel are aware of the updated plan and are appropriately trained, and (c) a program to ensure that all reasonable steps are taken to prevent and contain sanitary sewer overflows.
5. Provision No. 25 shall be added to WDRs Order No. R5-2002-0076 as follows:
25. Beginning **1 August 2008**, and by the first day of the second month following each calendar quarter (i.e., by **1 February, 1 May, 1 August, and 1 November each year**), the Discharger shall submit a progress report describing the work accomplished to date to complete the WWTF, or if that information is unavailable, describing the Discharger's efforts to obtain progress reports and schedules from Nevada County. In addition, the report shall include the status of obtaining financial contributions by homeowners to ensure that waste hauling and proper operation of the collection system continues until the WWTF is completed and operated by Nevada County Sanitation District. This report is required each quarter until Nevada County Sanitation District assumes responsibility of the WWTF.

This Order is effective as of the date of adoption.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 31 July 2008.

Original Signed By

PAMELA C. CREEDON, Executive Officer

Attachment A: Listing of homes connected to the sewer system

gjc: 31-Jul-08

Attachment A to Order No. R5-2008-0123
 Amending WDRs Order No. R5-2002-0076 for
 Darkhorse Subdivision
 Darkhorse LLC, Darkhorse Golf Club, LLC, and Ed Fralick
 Nevada County

Listing of Homes Connected to the Sanitary Sewer System		
Property Address	Parcel Number	Property Owner
12807 Austin Forest	11-171-55	Schlosser
12817 Austin Forest	11-171-54	Group Four
12827 Austin Forest	11-171-53	Rogers
12859 Austin Forest	11-171-45	SDS Group
12897 Austin Forest	11-171-28	Follman
12910 Austin Forest	11-171-21	Richards
12916 Austin Forest	11-171-20	Harvey
12925 Austin Forest	11-171-31	Billerbeck
12963 Austin Forest	11-171-34	Riccardi
13021 Austin Forest	11-171-38	Baldwin Ranch
13028 Austin Forest	11-171-08	Fralick
23150 DarkHorse Drive	11-151-28	Dimugno
23245 DarkHorse Drive	11-151-24	Hogendoorn
23248 DarkHorse Drive	11-151-39	Daley
23325 DarkHorse Drive	11-151-17	Rankin
23411 Alexis	11-191-28	Waren
23567 DarkHorse Drive	11-161-18	Ussery
23577 DarkHorse Drive	11-161-17	Davis
23744 DarkHorse Drive	11-171-65	Sierra Horizon
23750 Hogan	11-171-42	Deltessandoro
23757 DarkHorse Drive	11-161-04	Pikul
23768 DarkHorse Drive	11-171-64	Fralick
23786 DarkHorse Drive	11-171-63	Rosene
23858 DarkHorse Drive	11-171-60	Rickman
23818 DarkHorse Drive	11-171-62	Thomas
23410 Darkhorse Drive	11-151-05	Holland
23547 Darkhorse Drive	11-161-20	Laplante
23685 Darkhorse Drive	11-161-07	Hopkins
23898 Darkhorse Drive	11-171-70	Fralick
23833 Ironwood Court	11-191-45	Katz
23748 Ironwood Court	11-191-50	Ussery

Homes Under Construction Pending a Sanitary Sewer Permit		
Property Address	Parcel Number	Property Owner
23187 Darkhorse Drive	11-151-27	Avery