

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ACL COMPLAINT NO. R5-2005-0505

ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF

CITY OF MARYSVILLE
WASTEWATER TREATMENT AND RECLAMATION FACILITY
YUBA COUNTY

This Administrative Civil Liability Complaint (hereafter Complaint) is issued to the City of Marysville, (hereafter known as “Discharger”) based on a finding of failure to submit technical reports pursuant to California Water Code (CWC) Section 13267, and based on provisions of CWC Section 13267(b)(1) and Sections 13268(a) and (b), which authorize the imposition of an Administrative Civil Liability.

The Executive Officer of the California Regional Water Quality Control Board, Central Valley Region, (Regional Board) finds, with respect to the Discharger's acts, or failure to act, the following:

1. The Discharger owns and operates a wastewater treatment plant and wastewater disposal ponds at the confluence of the Yuba and Feather Rivers, near Bizz Johnson Drive in Marysville, Yuba County.
2. Waste Discharge Requirements (WDRs) Order No. 5-01-071, adopted by the Regional Board on 16 March 2001, prescribes requirements for the treatment, storage and disposal of wastewater at the facility.
3. The wastewater treatment plant includes secondary treatment followed by disposal to percolation/evaporation ponds. The Discharger has also installed a Tertiary Treatment Unit (TTU) that is designed to treat wastewater to tertiary standards, followed by irrigation of nearby soccer fields.

PREVIOUS ENFORCEMENT

4. The Discharger has had a long history of violations of its WDRs. These violations include discharge of wastewater effluent to surface water bodies, violation of pond freeboard limitations prescribed in the WDRs, failure to implement system upgrades and measures to ensure compliance with the WDRs, and lack of submittal of technical reports.
5. On 22 March 2000, the City was issued a Notice of Violation for the release of 2 to 3 million gallons of effluent from a percolation pond to the river.
6. On 19 February 2002, the City was issued a Notice of Violation for inadequate freeboard in the wastewater storage ponds and for failure to submit several technical reports required by WDRs Order No. 5-01-071. The Discharger corrected the freeboard violation but did not submit the

technical reports.

7. Due to the failure to submit the technical reports required by the WDRs, on 23 January 2004, the Executive Officer issued a California Water Code Section 13267 Order requiring the submittal of eight technical reports required by WDRs Order No. 5-01-071.
8. In response to 23 January 2004 Section 13267 Order, the Discharger submitted an application to comply with the General Permit for Stormwater Discharges, the flow measurement report, the corrective actions and contingency report, the sludge disposal plan, an operations and maintenance report, and a listing of commercial/industrial dischargers within the service area. These reports met the requirements of Provisions No. F.1 through F.6 of the WDRs. However, by March 2004, the Discharger had not complied with Provisions No. F.7 or F.8 of the WDRs.
9. Because of the Discharger's failure to submit all reports in compliance with the WDRs and due to related water quality issues, on 13 April 2004, staff issued a draft Cease and Desist (C&D) Order and requested comments from the City.
10. The City submitted comments on 23 April 2004. In those comments, the City requested an extension of the submittal deadlines for two reports prescribed in the draft C&D, the *Tertiary Treatment Unit Upgrade Report* and the *Flow Meter Installation Report*, to 1 December 2004.
11. On 4 June 2004, the Regional Board adopted Cease and Desist Order No. R5-2004-0072 prescribing the implementation of several measures and submittal of several documents to ensure long-term compliance with the WDRs. The deadline extensions request, described in Finding No. 10 above, were included in the adopted Order.

RECENT VIOLATIONS

12. Items No. 2 and 3 of the C&D require the submittal of a *Feasibility Study and Master Plan Workplan* and a *Groundwater Sampling and Analysis Plan*. Both were due on 1 August 2004. On 30 July 2004, Kennedy/Jenks Consultants informed staff that they had not been given authorization to proceed with preparing those technical reports until 9 July 2004, that the reports were not yet complete, and they would not be submitted in a timely manner. Staff communicated to the Discharger, both verbally and in a letter dated 26 August 2004, that the failure to meet C&D submittal deadlines was considered a serious violation, and that continued failure to comply with the C&D would result in formal enforcement action. The two technical reports were submitted on 26 August 2004. Although late, the content of the reports is acceptable.
13. Item No. 6 of the C&D requires the submittal, by 1 December 2004, of a *Tertiary Treatment Unit Upgrade Report*, the purpose of which was to demonstrate that the Tertiary Treatment Unit (TTU) is operating reliably enough to allow discharge to the soccer fields. The report was to include a description of the changes made to the system to allow for reliable operation. A report was submitted in time to meet the report deadline, but it did not describe any changes that have been made to the TTU that would make it function reliably. The only change described in the report

was a safety mechanism to ensure that effluent not meeting tertiary standards was not discharged in violation of the WDRs and Title 22. Because the report did not describe the changes made to the TTU to allow for its reliable operation and did not demonstrate that the TTU is operating reliably enough to allow discharge to the soccer fields, the report did not meet the requirements of the C&D, and was found to be incomplete.

14. Item No. 7 of the C&D requires the submittal, by 1 December 2004, of a *Flow Meter Installation Report*, the purpose of which was to demonstrate that a flow monitoring system adequate to determine flow rates discharged to the wastewater storage ponds and to detect leakage from the wastewater pipeline under the Yuba River was installed and was operational. A report was submitted in time to meet the report deadline, but it clearly stated that the existing flow meters do not allow the Discharger to make either of the required determinations. Instead the report proposed to install a new flow meter that would meet the functional requirements of the C&D by 30 June 2005. Because the report did not meet the requirements of the C&D, it was found to be incomplete.
15. Item No. 8 of the C&D prescribes the submittal, by 1 January 2005, of a *Sludge Bed Lining Report*, the purpose of which was to demonstrate that the sludge beds were adequately lined to protect underlying groundwater. A report was submitted in time to meet the report deadline. However, the report did not demonstrate that the beds had been adequately lined, but instead described a conceptual design for a sludge bed lining system and proposed an installation date of 30 June 2005. Because the report did not meet the requirements of the C&D, it was found to be incomplete.
16. In violation of the CWC 13267 Order, the Discharger has failed to submit the following reports as prescribed in the C&D: (a) the *Tertiary Treatment Unit Report*, (b) the *Flow Meter Installation Report*, and (c) the *Sludge Bed Lining Report*. These reports are necessary to ensure that the wastewater system has adequate wastewater disposal capacity, flow to the wastewater ponds can be accurately measured, potential leakage of wastewater from the pipe under the Yuba River can be detected, the sludge bed lining system provides adequate protection of underlying groundwater and that waste is disposed in accordance with WDRs Order No. 5-01-071.

REGULATORY CONSIDERATIONS

17. By the acts and omissions cited above, the Discharger has violated C&D Order No. R5-2004-0072, which requires that all technical reports be submitted pursuant to CWC Section 13267.
18. CWC Section 13268 (a) states: “Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).”
19. CWC Section 13268(b)(1) states: “Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an

amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.”

20. CWC Section 13327 states: “In determining the amount of civil liability, the regional board ... shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.”
21. CWC Section 13268(b)(1) authorizes Administrative Civil Liability not exceeding one thousand dollars (\$1,000) for each day of failure to submit technical reports as required by subdivision (b) of Section 13267.
22. As of 2 March 2005, the Discharger has failed to submit the following:
 - a. The *Tertiary Treatment Unit Upgrade Report* (due on 1 December 2004);
 - b. The *Flow Meter Installation Report* (due on 1 December 2004);
 - c. The *Sludge Bed Lining Report*, (due on 1 January 2005).
23. Based on C&D Order No. No. R5-2004-0072, as of 2 March 2005:
 - a. The *Feasibility Study and Master Plan Workplan* was 24 days late;
 - b. The *Groundwater Sampling and Analysis Plan* was 24 days late;
 - c. The *Tertiary Treatment Unit Upgrade Report* is 90 days late;
 - d. The *Flow Meter Installation Report* is 90 days late;
 - e. The *Sludge Bed Lining Report* is 59 days late.
24. The maximum liability for the nonsubmittal of these technical reports is two hundred eighty seven thousand dollars (\$287,000). No minimum liability is required to be imposed under Section 13268(b)(1).
25. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et. seq.), in accordance with Section 15321 (a)(2), Title 14, of the California Code of Regulations.

THE CITY OF MARYSVILLE IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed Administrative Civil Liability in the amount of twenty five thousand dollars (\$25,000). The amount of the liability proposed is based upon a review of the factors set forth in CWC Section 13327 cited in Finding No. 20 above, and includes consideration of the economic benefit or

savings resulting from the violations.

2. A hearing shall be held on **28/29 April 2005** unless the Discharger agrees to waive the hearing and pay the imposed civil liability in full.
3. If a hearing is held, the Regional Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. In lieu of a hearing, the Discharger may waive the right to a hearing. If you wish to waive the hearing, please sign the enclosed waiver and return it with the full amount of civil liability (in a check made payable to the *State Water Resources Control Board, Waste Discharge Permit Fund*), to the Regional Board's office at 11020 Sun Center Drive, Rancho Cordova, Sacramento, CA 95670, by **31 March 2005**.

THOMAS R. PINKOS, Executive Officer

3 March 2005

(Date)