

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
81 Higuera Street, Suite 200
San Luis Obispo, CA 93401-5427**

**CEASE AND DESIST ORDER NO. R3-2002-0105
[Waste Discharger Identification No. 3 350100001]**

Adopted September 19, 2002

Requiring the

**CITY OF HOLLISTER, SAN BENITO COUNTY,
To Cease and Desist from
Discharging Waste in Violation of Requirements Prescribed by the
Central Coast Regional Water Quality Control Board**

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

1. The Regional Board is authorized under Section 13301 of the Porter-Cologne Water Quality Control Act to order Dischargers to cease and desist discharging waste in violation or threatened violation of its Waste Discharge Requirements, and to take appropriate action to come into compliance with those requirements. Section 13301 also authorizes the Regional Board to restrict or prohibit the volume, type, or concentration of waste that might be added to the community sewer system by dischargers who did not discharge into the system prior to the issuance of this Order.
2. The City of Hollister (hereafter Discharger or City) owns two wastewater treatment and disposal facilities. Bracewell Engineering, Inc., operates both facilities under contract with the City. The Domestic Wastewater Treatment Facility is located west of downtown Hollister on both sides of the Highway 156 bypass, north of Highway 156, and south of the San Benito River (See Figure 1). The Industrial Wastewater Treatment Facility is located west of downtown Hollister at the west end of South Street and on the north side of the San Benito River (See Figure 2).
3. The Domestic Wastewater Treatment Facility is regulated under Waste Discharge Requirements Order No. 87-47, and the Industrial Wastewater Treatment Facility under Waste Discharge Requirements Order No. 00-020.
4. The Domestic Wastewater Treatment Facility receives municipal wastewater from residential, commercial, industrial, and institutional sources. The treatment process consists of a comminutor and facultative treatment ponds. Treated wastewater is not disinfected, and discharges to percolation/evaporation ponds for disposal.
5. The Industrial Wastewater Treatment Facility receives tomato cannery wastewater during the canning season from one tomato processing facility, year-round municipal wastewater (diverted flows from the Domestic Wastewater Treatment Facility), and storm water. The treatment process consists of influent screening and two aerated facultative ponds. Treated wastewater is not disinfected, and discharges to percolation/evaporation ponds for disposal.
6. For the Domestic Wastewater Treatment Facility, Discharge Specification B.1 of Order No. 87-47 limits influent flow to a maximum monthly average of 2.69 million gallons per day (MGD). However, Discharge Specification B.1 in Order No. 87-47 provides that flow limits are not an entitlement, but a maximum

allowable capacity providing all other conditions of the Order are met. As described in subsequent Findings, the Discharger is not in compliance with all conditions of Order No. 87-47.

7. The 1999 Environmental Impact Report for the Domestic Wastewater Treatment Plant to Industrial Wastewater Treatment Plant Diversion Project (Section I.A, page 1) estimates disposal capacity at the Domestic Wastewater Treatment Facility is 2.5 MGD. Discharging wastewater to the percolation ponds in excess of the disposal capacity threatens to cause violations of freeboard requirements and increases the potential for spills, overflows, or levee failure. Therefore, this represents the limiting factor for the City in managing wastewater discharged to the Domestic Wastewater Treatment Facility.
8. The 1999 Environmental Impact Report for the Domestic Wastewater Treatment Plant to Industrial Wastewater Treatment Plant Diversion Project identified two significant, unavoidable impacts related to diversion of domestic wastewater to the Industrial Wastewater Treatment Facility. The first is short-term impacts to shallow groundwater quality within an approximate one-half mile radius of the Industrial Wastewater Treatment Facility, which could potentially impact several domestic private wells in the vicinity of the Industrial Wastewater Treatment Facility. The second is the diversion project will cause groundwater levels to rise in a local area beneath and adjacent to the Industrial Wastewater Treatment Facility ponds and contribute to locally shallow groundwater levels along the San Benito River. This may interfere with the San Benito County Water District's intentional recharge practices along the San Benito River. In an effort to minimize these impacts, the Discharger proposed diverting limited volumes of domestic wastewater to the Industrial Wastewater Treatment Facility as an interim solution until a long-term solution to wastewater treatment and disposal issues was developed.
9. In 1999, the Discharger requested approval to divert, on a temporary basis, portions of its domestic wastewater flow to the Industrial Wastewater Treatment Facility. This request was based on having excess treatment and disposal capacity at the Industrial Wastewater Treatment Facility and reduced disposal capacity at the Domestic Wastewater Treatment Facility. The Waste Discharge Requirements for the Industrial Wastewater Treatment Facility in effect at the time allowed up to 7.5 MGD of tomato cannery wastewater on a seasonal basis. Given that only one cannery was in operation in 1999, with tomato process flows less than 3.5 MGD for approximately a two or three month period, and the Industrial Wastewater Treatment Facility was designed to treat high-strength organic loading in comparison with domestic wastewater (i.e., excess treatment and disposal capacity existed at the Industrial Wastewater Treatment Facility), the Discharger requested approval to temporarily divert up to 0.52 MGD of domestic wastewater to the Industrial Wastewater Treatment Facility as a long-term wastewater solution was developed. The requested wastewater flow rate was intended to provide capacity for the approximately 1660 housing unit applications that were in various stages of the City's planning and permitting processes, and an equivalent level (with respect to wastewater flow) of commercial, industrial, and institutional development.
10. In May 2000, the Regional Board adopted Order 00-020, allowing temporary diversion of domestic wastewater to the Industrial Wastewater Treatment Facility. The Regional Board, local agencies, and general public expressed concern that diversions to the Industrial Wastewater Treatment Facility not become a permanent solution. In addition, these same parties expressed concern over the number of housing units the City proposed to accommodate. As a result, the Regional Board phased the City's requested 0.52 MGD flow allocation in accordance with achieving various milestones toward developing and implementing a Long-term Wastewater Management Program. The Regional Board also included Prohibition A.6 in Order 00-020, prohibiting further discharge or diversion of domestic wastewater to the Industrial Wastewater Treatment Facility after June 30, 2005. The Regional Board also added Provision 7 to Order 00-020, which set a time schedule for development and implementation of the Long-term Wastewater Management Program. The Discharger was in agreement with the adopted milestones and phased flow allocations, and indicated it would be able to develop and implement a Long-term Wastewater Management Program in the five-year time schedule allotted in Provision 7 of Order 00-020.

11. For the Industrial Wastewater Treatment Facility, Discharge Specification B.1 of Order No. 00-020 limits domestic (non-cannery) wastewater flow to the Industrial Wastewater Treatment Facility based on the City achieving five milestones associated with development and implementation of a Long-term Wastewater Management Program. The Discharger has only achieved the first milestone, which led to the Regional Board approving the initial domestic wastewater diversion allocation of 0.18 MGD, during the canning season (mid-June to mid-October). During the non-canning season, the Discharger is authorized to divert up to 1.52 MGD, which allows the Discharger to operate both Domestic and Industrial Wastewater Treatment Facilities at about the same flow rates. This is intended to ensure the Domestic Wastewater Treatment Facility is not overloaded prior to onset of the wet season, and allows City staff to renovate the disposal ponds during the dry season to maximize percolation capacity. Cannery wastewater flow is limited to 3.5 MGD during the canning season.
12. Pursuant to Orders No. 87-47 and 00-020, overall domestic wastewater flow for the City of Hollister is limited to the sum of permitted capacities (or actual treatment and disposal capacity, if less than permitted capacity) at the Domestic and Industrial Wastewater Treatment Facilities.
13. The City's First Quarter 2002 Self-Monitoring Report for the Domestic Wastewater Treatment Facility reports the total average daily domestic wastewater flows (to both the Domestic and Industrial Wastewater Treatment Facilities) for the months of February and March 2002 were 2.718 and 2.967 MGD, respectively. The Discharger's Second Quarter 2002 Self-Monitoring Report indicates flow violations for the months of April and June, with average monthly flows of 2.919 and 2.897 MGD, respectively. These months were all during the non-canning season, and, as such, the Discharger did not violate its non-canning season flow limitations, which is 4.21 MGD (the sum of 2.69 MGD at the Domestic Wastewater Treatment Facility and 1.52 MGD at the Industrial Wastewater Treatment Facility). However, since domestic wastewater flow volumes are not seasonal and are difficult to reduce except through conservation, the Discharger threatens to violate canning season flow limitations. During the canning season, overall domestic wastewater flow is limited to 2.87 MGD, which is the sum of 2.69 MGD at the Domestic Wastewater Treatment Facility and 0.18 MGD at the Industrial Wastewater Treatment Facility.
14. The City recently renovated the disposal ponds at the Domestic Wastewater Treatment Facility in an effort to restore disposal capacity to original design levels.
15. From June 1, 2001 to March 31, 2002, the Discharger violated Prohibition A.2 of Order No. 87-47¹ when treated, undisinfected wastewater from Disposal Bed 13 at the Domestic Wastewater Treatment Facility seeped into the inactive San Benito River channel (See Figure 3). The Discharger estimates seepage occurred over a 122 day period, at a flow rate of 50 gallons per day, for a total of 6,100 gallons. This illegal discharge caused, or threatened to cause, a condition of pollution or nuisance as defined in Section 13050 of the Porter-Cologne Water Quality Control Act.
16. The Discharger violated Prohibition A.1 of Order No. 00-020² on May 6, 2002 when a levee at Disposal Pond 6 of the Industrial Wastewater Treatment Facility breached, discharging an estimated 15 million gallons of treated, undisinfected domestic wastewater to the San Benito River channel (See Figure 4). Since the canning season ended approximately seven months prior to the spill, this wastewater was essentially all domestic wastewater. The Discharger's May 10, 2002 Spill Report indicates the levee breach was likely the result of a hole in the levee created by a burrowing animal. This illegal discharge caused, or threatened to cause, a condition of pollution or nuisance, as defined in Section 13050 of the Porter-Cologne Water Quality Control Act.

¹ Discharge of any wastes, including overflow, bypass, seepage, and overspray from transport, treatment, or disposal systems, to San Benito River, adjacent drainageways, or adjacent properties is prohibited.

² Discharge to areas other than designated disposal areas is prohibited.

17. The Discharger is approximately one year behind in its original schedule for achieving the milestones in Order No. 00-020 for development and implementation of a Long-term Wastewater Management Program. As a result, the Discharger's ability to fully implement a Long-Term Wastewater Management Program by May 2005 is unlikely. Therefore, the Discharger threatens to violate Prohibition A.6, which prohibits discharge or diversion of domestic wastewater to the Industrial Wastewater Treatment Facility after June 30, 2005.
18. Provision 7 of Order No. 00-020 required the Discharger to submit a fully developed Long-term Wastewater Management Program by May 20, 2002. The Discharger submitted a timely report, however it presented four different treatment and disposal options and did not present a fully developed Long-term Wastewater Management Program. Therefore, the Discharger violated Provision 7 of Order No. 00-020. Regional Board staff issued a Notice of Violation for this issue on July 16, 2002.
19. On May 6, 2002, the Hollister City Council adopted an urgency ordinance suspending issuance of building permits for new construction resulting in additional connections to the sewer system, citing as a basis the violation identified in Finding 16, above. This ordinance was adopted by the City Council for immediate protection of the public health, safety, and welfare.
20. On May 13, 2002, the Hollister City Council directed City staff to prepare a more formal ordinance than the urgency ordinance described in Finding 19, above. On May 20, 2002, the Hollister City Council adopted Ordinance No. 974, suspending issuance of building permits for new construction in the City. This includes 1) construction of new commercial, residential, or industrial buildings which require connection to the City sewer system, 2) construction of new dwelling units, and 3) building additions that include installation of a new plumbing fixture unit. City staff's May 16, 2002, report indicates there are currently 148 residential units, including 40 apartment units and six commercial/industrial projects that have been issued building permits but have not yet connected to the sewer system. The City estimates these permits represent an additional 40,000 gallons per day of wastewater (0.04 MGD), which City staff believes can be adequately treated and disposed with the existing facilities, given the recent disposal pond renovation activities. Therefore, City Ordinance 974 allows those structures to connect to the sewer system, and prohibits issuance of any new building permits.
21. Given the violations of Orders No. 87-47 and 00-020 described above, the current delay in developing a Long-term Wastewater Management Program described above, and the City's emergency building moratorium described above, the City is unable to adequately treat and dispose of current wastewater flows in compliance with its Waste Discharge Requirements. Therefore, issuance of building permits resulting in additional connections to the City's sewer system will increase demand on wastewater treatment and disposal capacity, cause continuing violations of Waste Discharge Requirements, and will threaten to cause a condition of pollution or nuisance as defined in Section 13050 of the Porter-Cologne Water Quality Control Act.
22. In the short-term, disposal capacity and measurement of influent flow volumes may be improved by the City's recent disposal pond renovation activities at the Domestic Wastewater Treatment Facility, construction and use of new treatment plant headworks at the Domestic Wastewater Treatment Facility, and interim treatment plant modifications for reducing suspended solids for improved effluent quality. In the long-term, the City must develop and implement a long-term wastewater management program.
23. This enforcement action enforces the terms of two existing permits (waste discharge requirements Orders No. 87-47 and 00-020) and thus is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) in accordance with Section 15321, Title 14, California Code of Regulations.
24. The technical reports required in this Order are required of the Discharger under Section 13267 of the Porter-Cologne Water Quality Control Act because the Discharger is legally responsible for operation of

both wastewater treatment facilities. These technical and monitoring reports are necessary to assure the Discharger is taking actions to cleanup the continuing illegal discharge of waste, abate the effects thereof, and prevent further illegal discharges. Additional information in support of the requirement to provide technical and monitoring reports can be found in the official Regional Board files.

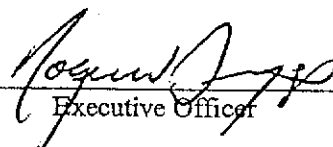
25. In testimony provided during the September 19, 2002 public hearing on this Order, the Discharger indicated it could meet the compliance dates in Provisions 3 through 9, below.

IT IS HEREBY ORDERED, pursuant to Sections 13301 and 13267 of the Porter-Cologne Water Quality Control Act, that:

1. As of the adoption date of this Order, the Discharger shall cease issuance of permits for additional connections to the community (domestic/municipal) sewer system. This includes, but is not limited to, connections resulting from 1) construction of commercial, residential, institutional, or industrial buildings requiring connection to the City sewer system, 2) construction of new dwelling units, and 3) building additions that include installation of new plumbing fixtures. The Regional Board is authorized by California Water Code section 13301 to restrict the volume of new discharges into the Discharger's community sewer system as of the date of this Order. The intent of this Order is to limit such volume to zero. As such, if the Discharger can demonstrate a particular project will result in no net increase in wastewater flows, it may petition the Regional Board on a case-by case basis for connection ban exemptions. The Discharger shall submit, as part of its self-monitoring reports, a certified statement from the City Manager that no permits have been issued in the previous reporting period that will result in additional connections to the community sewer system. The first certification shall be submitted with the first self-monitoring report after adoption of this Order.
2. As of the adoption date of this Order, the Discharger shall acquire prior approval from the Regional Board Executive Officer to remove material from or renovate any treatment or disposal ponds to improve percolation rates. When requesting such approval, the Discharger shall provide current data on pond bottom and groundwater elevations. The Discharger shall notify the Regional Board and receive Executive Officer approval prior to making any substantial changes to the operation, usage, or configuration of its wastewater treatment and disposal facilities, such as breaching internal berms in disposal beds.
3. By **October 22, 2002**, the Discharger shall submit an updated financial analysis for development and implementation of the Long-term Wastewater Management Program required under Provision 7 of Order No. 00-020. At a minimum, the updated financial analysis must include a cost estimate for implementing a Long-term Wastewater Management Program, broken down by line item or categories of costs, and an analysis of sources of funding in amounts sufficient to cover the estimated cost. If the financial analysis discloses available funds are not sufficient to cover estimated costs of developing and implementing the Long-term Wastewater Management Program, measures shall be identified to secure additional funding.
4. By **January 1, 2003**, the Discharger shall expand its water conservation program efforts. Performance standards for the water conservation program shall be established, and progress on achieving these standards shall be included as part of the Discharger's regular self-monitoring reports. The Discharger's first-quarter 2003 self-monitoring report shall describe the performance standards, historical conservation efforts, expanded conservation efforts, and serve as the initial report on meeting the performance standards.
5. By **March 3, 2003**, the Discharger shall award a contract for construction and installation of necessary equipment and improvements to reduce suspended solids concentrations in treated effluent discharged to the disposal beds at the Domestic Wastewater Treatment Facility to a 30-day average of 60 milligrams per liter (mg/l).

6. By **August 1, 2003**, the Discharger shall reduce suspended solids in treated effluent discharged to the disposal beds at the Domestic Wastewater Treatment Facility such that 30-day average concentrations do not exceed 60 milligrams per liter (mg/l). The Discharger shall commence weekly effluent suspended solids grab-sampling at the Domestic Wastewater Treatment Facility, effective as of the date of adoption of this order. All suspended solids analytical results shall be included in the Discharger's regular self-monitoring reports.
7. By **August 1, 2003**, the Discharger shall complete construction and initiate use of new treatment plant headworks at the Domestic Wastewater Treatment Facility. The headworks shall be designed and constructed such that the Discharger can accurately measure influent flow volumes. The design shall also ensure prevention of nuisance odor conditions at the headworks.
8. By **May 20, 2004**, the Discharger shall submit a complete Report of Waste Discharge for the Long-term Wastewater Management Program required under Provision 7 of Order No. 00-020 and pursuant to Section 13260 of the California Water Code. The Report of Waste Discharge shall address long-term domestic wastewater treatment and disposal as well as ongoing treatment and disposal of tomato cannery wastewater at the Industrial Wastewater Treatment Facility.
9. By **October 15, 2005**, the Discharger shall fully implement all aspects of the long-term wastewater management program required under Provision 7 of Order No. 00-020. Full implementation includes all necessary permitting actions, environmental review, design, construction, and funding. Discharge of domestic wastewater to the Industrial Wastewater Treatment Facility is prohibited after this date. This compliance time schedule supercedes the schedule established in Order No. 00-020.

I, **Roger W. Briggs**, Executive Officer of the California Regional Water Quality Control Board, Central Coast Region, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Control Board, Central Coast Region, on September 19, 2002.


Executive Officer
10-17-02
Date