

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER R5-2013-0700
FOR

CITY OF LOYALTON
WASTEWATER TREATMENT FACILITY
SIERRA COUNTY

This Order is issued to the City of Loyalton (Discharger) based on provisions of California Water Code section 13304, which authorizes the California Regional Water Quality Control Board, Central Valley Region, (hereafter Central Valley Water Board or Board) to issue a Cleanup and Abatement Order (CAO), and Water Code section 13267, which authorizes the Board to require the submittal of technical reports.

The Executive Officer of the Central Valley Water Board finds, with respect to the Discharger's acts, or failure to act, the following:

1. The Discharger owns and operates a municipal wastewater treatment facility located at 403 Poole Lane, Loyalton in Sierra County.
2. For the purposes of this Order, the term "Wastewater Treatment Facility" (WWTF) shall mean the wastewater collection system, the wastewater treatment ponds, constructed wetlands, wastewater storage ponds, recycled water distribution piping, and the land application area. Grandi Ranch owns the land application area (LAA). The LAA is located in Section 11, T2N, R15E, MDB&M.
3. Several Orders have been adopted regarding the wastewater treatment facility. They consist of:
 - a. Waste Discharge Requirements (WDRs) Order 5-01-069 and Water Recycling Requirements (WRRs) Order 5-01-051 were adopted by the Central Valley Water Board on 16 March 2001. The Orders regulated the treatment, storage, onsite disposal of wastewater, and also allowed recycled water to be applied on the Bar One Ranch.
 - b. Cease and Desist Order (CDO) R5-2005-0089 was adopted by the Central Valley Water Board on 24 June 2005. Because of excessive inflow and infiltration into the community collection system, limited disposal area, and restrictions on land application due to weather conditions, the Order required design and construction of a system that complies with the storage capacity requirements of WDRs Order 5-01-069.
 - c. WDRs Order R5-2009-0108 was adopted by the Central Valley Water Board on 8 October 2009. The Order rescinded WDRs Order 5-01-069 and WDRs Order 5-01-051, and allows the discharge of wastewater to recently constructed wetlands, lined wastewater storage ponds and 65 acres of land application area located on the Grandi Ranch. Order R5-2009-0108 requires 120 acre feet of storage at the wastewater treatment facility and 65 acres of land application area.

DISCHARGE VIOLATIONS

4. Finding 11 of WDRs Order R5-2009-0108 states, in part, "*The Discharger plans the following improvements: C. Convert seven of the nine existing rapid infiltration ponds into two 60-mill thick HDPE liner equipped effluent storage ponds that provide 120 ac.ft of treated wastewater storage.*"
5. Finding 48 of WDRs Order R5-2009-0108 states, in part, "*The Discharger will provide treatment and control of the discharge that incorporates: E. Synthetically lined wastewater storage ponds.*"
6. On 24 August 2010, the WWTF operator observed a large bubble in lined wastewater storage pond #1 (also known as the south storage pond). The liner lifted to a height of approximately nine feet before bursting later that day. Wastewater was transferred to the north storage pond and the liner in the south pond was subsequently repaired by the Discharger.
7. In January 2011, bubbles reappeared in the south pond.
8. In April 2011, bubbles appeared in the north pond. The Discharger subsequently (a) installed air vents in the perimeter of both storage ponds to allow trapped air beneath the liners to escape and (b) placed ballast on the bottom of the storage ponds in an attempt to hold the liners down.
9. Discharge Specification A.2 of WDRs Order R5-2009-0108 which states, "*Bypass or overflow of untreated or partially treated waste is prohibited.*"
10. General Provision A.7 of the Standard Provisions and Monitoring Requirements for Waste Discharge Requirements, states, "*The Discharger shall maintain in good working Order and operate as efficiently as possible any facility, control system, or monitoring device installed to achieve compliance with the waste discharge requirements.*"
11. On 9 June 2011, Central Valley Water Board staff inspected the WWTF. During the inspection staff observed inoperable aerators, a leaking chlorine generator, moderate erosion of outer pond berms, signs of wastewater seepage around a valve box, bubbles in both storage ponds and ponded water adjacent to, and outside of, the land application area tailwater diversion box. The storage pond seeps are a violation of Discharge Specification A.2. The inoperable aerators and leaking chlorine generator are a violation of General Provision A.7 of the Standard Provisions.
12. Staff issued a Notice of Violation (NOV) on 23 June 2011 for violations observed during the inspection. The NOV required the Discharger to submit a corrective action plan by 25 July 2011 for repairs associated with the storage pond liners in the north and south ponds, erosion areas and rodent holes on the outer pond slopes, pond aerators and chlorine generator. Additionally, the Discharger was required to investigate the integrity

of tailwater diversion box and surrounding grade to ensure that wastewater applied to the land application area remains contained on-site. The corrective action plan was also to contain a description of how wastewater would be managed to maintain compliance with Order R5-2009-0108 while the liner inspection and repairs were performed on the storage ponds. The repairs were to be completed by 15 September 2011.

13. On 12 September 2011, the Discharger submitted a status report and request for a time extension to resolve issues identified during staff's inspection. The report stated that erosion of the north pond berm was being addressed, rodent holes in the pond berms were being repaired, vegetation around the ponds was being minimized, the pond aerators were operational, and the chlorine generator was not leaking. Additionally, the report requested additional time to investigate and complete repairs to the wastewater storage pond liners and tailwater diversion box.
14. On 10 January 2012, the Executive Officer issued a *Water Code Section 13267 Order for Technical and Monitoring Reports*. The Order was issued because the Discharger did not submit the Corrective Action Plan required by the 23 June 2011 NOV. The Order required the Discharger to submit a technical report/corrective action plan by 28 February 2012 that addresses necessary repairs for the storage pond liners and eliminate the seeps in the wastewater storage ponds. Additionally, the Order required the Discharger to submit past due monthly and quarterly monitoring reports for the period of August 2011 through November 2011 (inclusive).
15. On 7 March 2012, the Discharger requested a 60 day extension to submit the corrective action plan required by the 10 January 2012 Water Code Section 13267 Order. The extension request was approved.
16. On 27 April 2012, the Discharger submitted the previously requested corrective action plan. The corrective action plan cited shallow groundwater conditions and inadequate site grading as the most likely cause of air entrapment and subsequent bubble formation in the storage ponds. Additionally, the corrective action plan provided three potential solutions to stop the occurrence of bubbles in the storage ponds. However, the report concluded that additional groundwater characterization in the vicinity of the storage basins was necessary before identifying the appropriate corrective action. The corrective action plan also stated that stability issues with the interior basin berm may exist and further evaluation of the interior berm, which separates the north and south storage ponds would be required.
17. On 13 June 2012, the Discharger submitted a status report stating that the City has received grant funding in the amount of \$1.4 million to investigate and repair the storage pond liners. Proposed options for repairing the liners and eliminating future bubbles from forming in the storage ponds include adding more ballast to the pond liners, intercepting upgradient groundwater which may be pooling beneath the pond liner, or removing the liners, re-grading the site and reinstalling the liners with increased bottom

slopes and air vents. The report also stated that no seeps were observed from the storage pond berms and adequate capacity was still available in the storage ponds.

18. On or before 13 June 2012, the Discharger installed eight piezometers in the vicinity of the storage ponds to characterize fluctuations in shallow groundwater elevations. The Discharger anticipates that 12 months of groundwater data must be collected and analyzed from the piezometers before the specific correction action can be decided upon and implemented. Therefore, the Discharger expects repairs of the storage pond liners to be completed by December 2014.

MONITORING AND OPERATING VIOLATIONS

19. Monitoring and Reporting Program R5-2009-0108 describes requirements for monitoring influent wastewater, treated effluent, wastewater ponds, land application areas, groundwater, sludge, and water supply.
20. Provision G. 4 of WDRs Order R5-2009-0108 states: "*The Discharger shall comply with Monitoring and Reporting Program R5-2009-0108, which is part of this Order, and any revisions thereto as Ordered by the Executive Officer.*" As described in Finding 14, above, the Discharger did not submit the August 2011 through November 2011 monitoring reports until required by the Water Code Section 13267 Order. The Reports were submitted on 19 January 2012.
21. Monthly monitoring reports have not contained the required land application area loading rates for nitrogen and fixed dissolved solids.
22. Provision G.1e of WDRs Order R5-2009-0108 states in part,: "**By 3 August 2012, the Discharger shall submit a Background Groundwater Quality Study Report.** The Discharger has not submitted the *Background Groundwater Quality Study Report* required by Order R5-2009-0108.
23. Provision G.7 of Order R5-2009-0108 states, "*The Discharger shall provide certified wastewater treatment facility operators in accordance with Title 23 CCR, Division 3, Chapter 26.*" The Discharger does not currently have a certified operator on staff to oversee operation of the wastewater treatment facility.

REGULATORY CONSIDERATIONS

24. The *Water Quality Control Plan for the Sacramento River and Sierra River Basins, Fourth Edition* (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Board. These requirements implement the Basin Plan.
25. Surface water drainage from the WWTF is to Smithneck Creek and then the Middle Fork Feather River. The beneficial uses of the Middle Fork Feather River from the

source to Little Last Chance Creek as stated in the Basin Plan, are agricultural supply; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; spawning, reproduction, and/or early development; and wildlife habitat.

26. The beneficial uses of the underlying groundwater are municipal and domestic supply, agricultural supply, industrial service supply, and industrial process supply.
27. Water Code section 13304(a) states, in relevant part:

Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement 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 the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.
28. Water Code section 13267(b) states, in relevant part:

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 ... 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. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.
29. The technical reports required by this CAO are necessary to ensure compliance with this CAO and WDRs Order R5-2009-0108, and to ensure the protection of water quality. The Discharger owns and operates the facility that discharges waste subject to this CAO and WDRs Order R5-2009-0108.
30. 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 (Pub. Resources Code, § 21000 et seq.) pursuant to California Code of Regulations, title 14, section 15321(a)(2).

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13304 and 13267, the City of Loyalton shall cleanup and abate the WWTF in accordance with the scope and schedule set forth below, in order to comply with WDRs Order R5-2009-0108.

1. **Beginning 1 May 2013**, and continuing quarterly until this Order is rescinded, the Discharger shall submit quarterly progress reports describing the work completed to date to comply with each of the requirements described below. The Quarterly Progress

Reports shall be submitted by the 1st day of the second month following the end of the quarter (e.g. 1 May, 1 August, 1 November, and 1 February).

2. **Effective immediately**, the Discharger shall submit complete monitoring reports that comply with monitoring and reporting program R5-2009-0108.
3. **Effective immediately**, any seepage of wastewater from pond berms shall be contained and immediately returned to the wastewater storage ponds.
4. By **15 April 2013**, the Discharger shall submit a report certifying that the tailwater diversion box is functioning adequately to prevent bypass or overflow from the land application area to surface water drainage courses and that the soil around the box is graded to prevent bypass of water around the diversion box.
5. By **15 April 2013**, the Discharger shall submit the past due *Background Groundwater Quality Study Report* required by Order R5-2009-0108.
6. By **15 August 2013**, the Discharger shall submit a report certifying that a Certified Wastewater Treatment Plant Operator has been retained to oversee operation of the wastewater treatment facility. The report shall contain a copy of the operator's current registration certificate.
7. By **15 October 2013**, the Discharger shall submit a *Corrective Action Report* that describes the corrective action that will be implemented to repair the storage pond liners and berms (if necessary). The Report shall contain a copy of the preliminary design drawings and volume calculations showing that the storage pond capacity will be equal to or greater than the 120 acre feet storage requirement required by WDR Order R5-2009-0108. The report shall also include a *Wastewater Management Plan* that describes how wastewater will be managed in compliance with Order R5-2009-0108 while the storage ponds are being repaired or re-constructed. Based on the chosen corrective action the following permits are required based on the construction activities:
 - If the project will involve the disturbance or discharge of dredged or fill material into surface waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be required from the U.S. Army Corps of Engineers. If a Section 404 permit is required by the Corps, a Water Quality Certification must be obtained from the Regional Board as required under Section 401 of the Clean Water Act. A Water Quality Certification must be obtained prior to initiation of project activities. The applicant is also advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements
 - If dewatering of groundwater is required, and the groundwater will be discharged to land, the Discharger may apply for coverage under Resolution No. R5-2008-0182, *Waiver of Reports of Waste Discharge and Waste Discharge Requirements for Specific Types of Discharge*.
 - If discharging groundwater to surface water, the Discharger may be required to file a dewatering permit covered under WDRs Order No. R5-2008-0081 (NPDES CAG995001) *General Order for Dewatering and Other Low Threat Discharges to Surface Waters*.

The *Corrective Action Report* shall describe whether any of the above permits are required and shall document that the Discharger has applied for them.

8. By **15 February 2015**, the Discharger shall submit the as-built drawings and certification that the storage ponds have been re-constructed and have a storage capacity of 120 acre feet while maintaining two feet of freeboard.
9. In addition to the above, the Discharger shall comply with WDRs Order R5-2009-0108 and all applicable provisions of the Water Code that are not specifically referred to in this Order.

As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, all reports shall be prepared by, or under the supervision of, a California Registered Engineer or Professional Geologist and signed by the registered professional.

Any person signing a document submitted under this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

If 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 time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and prior to the compliance date. An extension may be granted by revision of this Order or by a letter from the Executive Officer.

If 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 may issue a complaint for administrative civil liability. Failure to comply with this Order may result in the assessment of administrative civil liability up to \$10,000 per violation per day, pursuant to the Water Code sections 13268, 13350, and/or 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition

must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

This Order is effective upon the date of signature.

-Original Signed By-

PAMELA C. CREEDON, Executive Officer

28 February 2013

(Date)