

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER R5-2012-0707
FOR
JASWANT S. BAINS
SACRAMENTO PACKING PRUNE PROCESSING
SUTTER COUNTY

This Order is issued to Jaswant S. Bains, based on provisions of 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 authorized 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. Jaswant S. Bains (hereafter "Discharger") owns and operates Sacramento Packing prune processing facility (the "Facility") in Sutter County. Wastewater is generated by processing fruit, cleaning operations, boiler blow down, and an ion exchange water softening system. The industrial wastewater treatment system consists of a solids separator, two high density polyethylene lined aeration ponds and a percolation/evaporation (p/e) pond for final disposal.
2. The Facility is at 833 Tudor Road, Yuba City in Section 3, T13N, R3E, MDB&M, with surface water drainage to the Feather River.
3. On 23 April 2004, the Central Valley Water Board adopted Waste Discharge Requirements Order R5-2004-0060 (the "WDRs"), which prescribes requirements for the treatment and disposal of 90,000 gallons per day (as a monthly average) of industrial wastewater during the prune harvest season, which is defined as August and September. During the remainder of the year, the WDRs allow a flow of up to 50,000 gallons per day as a monthly average.

EFFLUENT VIOLATIONS

4. Interim Effluent Limitation C. 1. of WDRs Order R5-2004-0060 states:

Wastewater discharged from the second aeration pond to the percolation/evaporation pond shall not exceed the following monthly average limits, or such concentrations as the Discharger determines necessary to ensure compliance with the Groundwater Limitations.

Constituent	Units	Monthly Maximum Effluent Limit
Biochemical Oxygen Demand	mg/l	40
Total Dissolved Solids	mg/l	1,500

mg/l denotes milligrams per liter

5. Monitoring and Reporting Program R5-2004-0060 requires the Discharger to sample the Facility's effluent once per month for total dissolved solids (TDS) and biochemical oxygen demand (BOD).
6. For the period of May 2005 through January 2012, the Discharger reported effluent BOD concentrations that exceeded the monthly maximum effluent limit approximately 70% of the reporting months. For the same period, the Discharger reported effluent TDS concentrations that exceeded the monthly maximum effluent limit approximately 65% of the reporting months.
7. Prior to February 2010, the highest reported TDS concentration in the Facility's effluent was 2,230 mg/l in August 2006. Since February 2010, the Discharger has reported TDS concentrations as high as 5,270 mg/l, as shown in the table below. During the same period, effluent BOD concentrations were typically at least five times the effluent limit.

Month	Reported TDS Concentration (mg/L) (Effluent Limit 1500 mg/l)	Reported BOD Concentration (mg/L) (Effluent Limit 40 mg/l)
February 2010	1,900	67
March 2010	2,280	64
April 2010	2,700	206
May 2010	3,520	330
June 2010	4,280	216
July 2010	4,650	268
August 2010	5,270	259
September 2010	4,400	281
October 2010	3,130	270
November 2010	2,420	244
December 2010	Not Reported	Not Reported
January 2011	2,330	300
February 2011	2,570	275
March 2011	2,500	<2
April 2011	2,690	63
May 2011	2,940	151
June 2011	3,070	35
July 2011	3,330	6
August 2011	3,500	14
September 2011	2,920	90

October 2011	Not Reported	Not Reported
November 2011	1,930	33
December 2011	1,920	214
January 2012	2,240	202

OTHER VIOLATIONS AND HISTORY OF ENFORCEMENT

8. Discharge Prohibition A.2 of the WDRs states:

Bypass or overflow of untreated or partially treated waste is prohibited.

9. Discharge Specification B.8 of the WDRs states:

No wastewater shall be discharged with partial treatment. As of 1 October 2004, all process wastewater discharged at the facility must be treated in the aeration ponds.

10. Discharge Specification B.9 of the WDRs states:

The pond shall be managed to prevent the breeding of mosquitoes. In particular,

- a. An erosion control program should ensure that small coves and irregularities are not created around the waste surface.*
- b. Weeds shall be minimized through control of water depth, harvesting, and/or herbicides.*
- c. Dead algae, vegetation, and debris shall not accumulate on the water surface.*

11. On 21 August 2008, staff inspected the Facility and observed the following violations of WDRs Order R5-2004-0060:

- a. Residual liquid from the solids separator had discharged to the ground around the solids separator in violation of Discharge Specification B.8 of the WDRs;
- b. A diversion valve was set to bypass the wastewater treatment system and discharge wastewater to a drainage ditch adjacent to the wastewater ponds in violation of Discharge Prohibition A.2 and Discharge Specification B.8 of the WDRs.
- c. The eastern berm of the percolation/evaporation pond contained excessive vegetation and numerous burrows in violation of B.9.

12. On or about the same time, staff determined that the Discharger's monthly, quarterly, and annual self monitoring reports did not comply with the requirements of Monitoring and

Reporting Program R5-2004-0060. The monitoring reports did not contain the required solids monitoring data, violation reporting, and corrective action reports, or certification statements.

13. On 14 November 2008, Board staff issued a Notice of Violation (NOV) to the Discharger. The NOV described unauthorized discharges of wastewater to the drainage ditch, the submittal of deficient monthly, quarterly, and annual monitoring reports, and the exceedance of the interim effluent limits for TDS and BOD contained in the WDRs. The NOV requested that the Discharger submit corrective action plans to address the unauthorized discharge, the deficient monitoring reports, and the effluent violations, and requested that the plans be submitted by 31 December 2008. The Board did not receive a response.
14. On 15 September 2009, Board staff performed a follow-up inspection of the Facility. During the inspection, Board staff informed the Discharger that the Board had not received a response to the 14 November 2008 NOV. Staff verified that the Discharger had stopped the unauthorized discharge to the ditch. However, Board staff observed water in the drainage ditch adjacent to the percolation/evaporation pond. Although the water appeared to be confined to a section of the ditch adjacent to the pond, an access road culvert at the north end of the ditch could allow water to flow off-site into adjacent irrigation ditches and/or surface water drainage courses. The Discharger informed staff that a portion of the Facility's storm water is discharged to the drainage ditch.
15. On 21 January 2010, staff issued a second Notice of Violation to the Discharger for:
 - a. Failure to comply with the requests contained in the 14 November 2008 NOV;
 - b. Failure to submit technical reports required by WDRs Order R5-2004-0060 (*Operation and Management Plan and Background Groundwater Quality Study Report*); and
 - c. Continuing violations of interim effluent limits for TDS and BOD.

The NOV requested the Discharger to submit the past-due corrective action plans, technical reports, and a *Pond Berm Analysis Report* to evaluate the integrity of the east berm of the p/e pond and stop any seepage to the unlined ditch that may be occurring by 15 March 2010. Additionally, the NOV requested the Discharger to submit a Notice of Intent to obtain storm water coverage under the State Water Board's Industrial Storm Water General Order, Order 97-10-DWQ.

16. On 2 March 2010, the Discharger submitted a response to the 21 January 2010 NOV, which included the past-due corrective action plans for: the unauthorized discharge, the deficient monitoring and reporting, and the effluent violations. With respect to effluent violations for BOD and TDS, the Discharger reported that the solids separator was allowing solids to pass into the wastewater treatment system. However, the response did not include the past-due technical reports (*Operation and Management Plan and*

Background Groundwater Quality Study) required by the WDRs, or the *Pond Berm Analysis Report* requested by the November 2008 NOV.

17. The Discharger's monthly monitoring report for June 2010 stated that the east berm of the percolation/evaporation pond had been leaking to the drainage ditch and that the Discharger stopped the leak on 18 June 2010. The Discharger did not provide any other details regarding the berm leakage.
18. On 8 July 2010, Board staff issued a Failure to Comply Notice requesting the Discharger to submit the past-due *Operation and Management Plan*, *Background Groundwater Quality Study Report*, and *Pond Berm Analysis Report* by 15 July 2010. Additionally, the Notice requested that the Discharger submit a revised corrective action plan for the continuing effluent violations by 15 August 2010.
19. On 15 July 2010, the Discharger's consultant submitted the past-due *Operation and Management Plan*. The Discharger's consultant informed Board staff (via e-mail) that the Discharger was working to reduce the concentration of TDS and BOD in the Facility's effluent. The e-mail did not describe the specific actions that the Discharger would be take to reduce effluent concentrations of BOD and TDS. However, the consultant speculated that the high levels of TDS were probably due to higher than normal salt use in the Facility's water softening system. The Discharger's consultant informed Board staff that the Discharger was addressing wastewater seepage from the percolation/evaporation pond berm into the drainage ditch through gopher eradication and re-compaction of the pond berm.
20. On 23 August 2010, the Discharger submitted the past-due *Background Groundwater Quality Study Report*, which is discussed further below.
21. On 14 September 2011, Board staff again inspected the Facility. Board staff observed three violations of the WDRs: the primary aeration pond had approximately one foot of freeboard, instead of the required two feet; wastewater was seeping from the east berm of the percolation pond to the drainage ditch; and waste was overflowing from the solids separator. The Discharger subsequently stopped the overflow from the solids separator. Staff observed multiple locations where the Discharger had attempted to stop seepage from the percolation/evaporation pond by pouring concrete along the inner (east) berm of the percolation pond.
22. As of 1 March 2012, Board staff has not received the past due *Pond Berm Analysis Report* or *Revised Corrective Action Plan* for effluent violations. Therefore, this Order requires the Discharger to submit a *Biochemical Oxygen Demand Compliance Plan*, a *Salinity Compliance Plan*, and a *Pond Berm Repair Report*.
23. Based on a review of the Discharger's self monitoring reports for the period of July 2009 through January 2012, the Discharger has not provided freeboard monitoring data for the percolation/evaporation pond as required by Monitoring and Reporting Program R5-2004-0060. Additionally, the freeboard value reported in the primary aeration pond

has exceeded the two foot requirement during 13 of the previous 17 reporting periods. However, the monthly average flow data submitted for the same period indicates that the Facility has not exceeded the permitted flow limit. Therefore, this Order requires the Discharger to monitor the percolation/evaporation pond in accordance with MRP R5-2004-0060. Additionally, this Order requires the Discharger to have the flow meter calibrated and evaluate potential solids/sludge buildup in the ponds, which may be reducing storage and disposal capacity.

GROUNDWATER CONDITIONS AND VIOLATIONS

24. Five groundwater monitoring wells were installed at the Facility in March 2005. The five wells are completed to a depth of approximately 28 feet below ground surface. Since 2005, the depth to groundwater has varied between approximately 8.5 and 17.0 feet below ground surface. Additionally, the *Monitoring Well Installation Report* (18 May 2005) notes that the initial groundwater gradient may be incorrect due to the potential influence of the domestic wastewater discharge to a leach field approximately 50 feet south of monitoring well MW-5.

25. From April 2005 through December 2006, the groundwater flow direction beneath the Facility was reported to be easterly, at which time monitoring wells MW-2 and MW-4 were considered downgradient from the wastewater ponds. Monitoring wells MW-1, MW-3 and MW-5 were upgradient and considered to be potential background monitoring wells. During that period the concentrations of TDS, sodium, and chloride in downgradient wells MW-2 and MW-4 were approximately two to three times higher than the concentrations in the upgradient wells, as seen in the table below:

Range of Analytical Results (mg/l)			
Monitoring Well	TDS (mg/l)	Sodium (mg/l)	Chloride (mg/l)
MW-1 (upgradient)	792 to 1,010	58 to 92	24 to 48
MW-3 (upgradient)	1,100 to 1,270	88 to 100	41 to 60
MW-5 (upgradient)	770 to 966	34 to 52	28 to 60
MW-4 (downgradient)	1,080 to 1,340	49 to 100	110 to 250
MW-2 (downgradient)	1,390 to 2,780	60 to 210	560 to 900

26. Based on groundwater monitoring data provided by the Discharger, the concentrations of salinity related constituents in monitoring wells MW-1, MW-2, MW-3, and MW-4 have remained relatively stable. However, chloride concentrations in monitoring well MW-5 have increased from approximately 60 milligrams per liter to 300 milligrams per liter since 2009.
27. The Background Groundwater Quality Study Report submitted by the Discharger concludes that monitoring well MW-5 is an appropriate background well. However, because monitoring well MW-5 may be influenced by the discharge of wastewater to the Facility's domestic wastewater leach field, as evidenced by the recent increase in chloride concentrations in MW-5, the conclusion that well MW-5 is representative of background conditions may be inaccurate. This Order requires the Discharger to install a new background groundwater monitoring well outside the influence of the percolation/evaporation pond and domestic wastewater leach field.

REGULATORY CONSIDERATIONS

28. In summary, the discharge has consistently exceeded the effluent limitations in the WDRs. The discharge of wastewater with salinity constituent concentrations greater than twice the concentration found in groundwater beneath the Facility poses an unacceptable risk to water quality. Additionally, the bypass and/or seepage of partially-treated wastewater to the drainage ditch possess an unacceptable risk to water quality, and this discharge of waste may also be impacting groundwater quality.
29. The *Water Quality Control Plan for the Sacramento River and San Joaquin 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 Water Board.
30. Surface water drainage is to that portion of the Feather River between the Fish Barrier Dam and the Sacramento River.
31. The beneficial uses of the Feather River from the Fish Barrier Dam to the Sacramento River are municipal and domestic supply; agricultural irrigation supply; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; migration of aquatic organisms; spawning, reproduction, and/or early development, and wildlife habitat.
32. The beneficial uses of the underlying groundwater are municipal, domestic, agricultural supply, industrial service supply, and industrial process supply.
33. 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.

The discharge of high salinity wastewater to the percolation/evaporation pond violates the WDRs, and threatens to cause pollution or nuisance, as those terms are defined in Water Code section 13050. The Discharger, by failing to control the discharge, has caused or permitted, and threatens to cause or permit, waste to be discharged in such a manner that threatens to cause a threat to public health and/or create a condition of pollution or nuisance.

34. 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.

The technical reports required by this Order are necessary to ensure compliance with this CAO and WDRs Order R5-2004-0060, and to ensure the protection of water quality. The Discharger owns and operates the facility that discharges waste subject to this Order.

35. 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 California Code of Regulations, title 14, section 15321(a)(2).

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13304 and 13267, Jaswant S. Bains shall cleanup and abate the Sacramento Packing Prune Processing facility wastewater treatment and disposal system in accordance with the scope and schedule set forth below, and shall ensure full compliance with WDRs Order R5-2004-0060.

1. **Beginning 15 June 2012, and continuing monthly until this Order is rescinded**, the Discharger shall submit monthly progress reports describing the work completed to date to comply with each of the requirements described below. Additionally, the reports shall describe all seepage mitigation measures implemented during the reporting period and a log of daily inspections results for the ditch. The daily inspection log shall include number of seeps observed, approximate location of seeps, and approximate depth of water in the ditch. The Monthly Progress Reports shall be submitted by the **15th day of the month following the end of the reporting period** (i.e. the June report is due 15 July).

2. **By 1 June 2012**, the Discharger shall submit a report naming the California Registered Engineer or Professional Geologist it has retained to complete the reports required by this Order.
3. **By 1 July 2012**, the Discharger shall submit and immediately implement a *Biochemical Oxygen Demand Compliance Plan*, which shall describe specific facility and/or operational changes that have been, or will be, implemented to bring the discharge into compliance with the interim BOD effluent limit in Order R5-2004-0060 no later than **15 October 2012**.
4. **By 1 July 2012**, the Discharger shall submit and immediately implement a *Salinity Compliance Plan* that describes specific facility and/or operational changes that have been, or will be, implemented to comply with the salinity limits in WDRs Order R5-2004-0060 no later than **15 October 2012**.
5. **By 1 November 2012**, the Discharger shall submit a *Pond Berm Repair Report*, which shall include a description of the corrective actions that have been implemented to repair the percolation/evaporation pond berm and to stop seepage into the drainage ditch. The Report shall certify that there is no longer seepage from the pond into the drainage ditch. Additionally, the *Pond Berm Repair Report* shall describe the maintenance activities, and schedule for those activities, that the Discharger must complete to ensure that seepage does not occur in the future.
6. **By 1 August 2012**, the Discharger shall submit a *Groundwater Monitoring Well Installation Workplan* prepared in accordance with, and including the items listed in, the first section of Attachment A: "*Requirements for Monitoring Well Installation Workplans and Monitoring Well Installation Reports*." The workplan shall describe installation of at least one new groundwater monitoring well designed to ensure that background water quality is adequately characterized. The wells shall be designed to yield samples representative of the uppermost portion of the first aquifer and shall be installed by **15 October 2012**. Once installed the wells shall be sampled in accordance with MRP R5-2004-0060. The first sampling event for the new wells shall occur during the fourth quarter 2012.
7. **By 1 August 2012**, the Discharger shall submit a *Flow Meter Calibration and Sludge Evaluation Report* to evaluate the cause of freeboard violations observed in the wastewater treatment and disposal ponds. The *Report* shall certify that the facility flow meter is calibrated and accurately recording industrial wastewater flows from the facility. Additionally, the sludge evaluation portion of the *Report* shall be based on sludge measurements in the aeration and percolation/evaporation ponds. If the evaluation concludes that sludge within the ponds is reducing capacity, such that continued compliance with the freeboard limitation in the WDRs is not achievable, then the *Flow Meter Calibration and Sludge Evaluation Report* shall include a workplan and schedule for removing sludge from the ponds.

8. **By 1 December 2012**, the Discharger shall submit a *Monitoring Well Installation Report* prepared in accordance with, and including the items listed in, the second section of Attachment A: *"Monitoring Well Workplan and Monitoring Well Installation Report Guidance."* The report shall describe the installation and development of all new monitoring wells and explain any deviation from the approved workplan.
9. **By 1 December 2014**, the Discharger shall submit a *Revised Background Groundwater Quality Study Report*. For each groundwater monitoring parameter/constituent identified in the MRP, the report shall present a summary of monitoring data and calculation of the concentration in background monitoring wells. Determination of background quality shall be made using the methods described in California Code of Regulations, title 27, section 20415(e)(10), and shall be based on data from at least eight consecutive quarterly (or more frequent) groundwater monitoring events.

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.

In addition to the above, the Discharger shall comply with existing WDRs Order R5-2004-0060 and all applicable provisions of the Water Code that are not specifically referred to in this Order.

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

14 May 2012

Date

BPK/WSW: 10 May 2012

Attachment A: Requirements for Monitoring Well Installation Work Plans and Reports