

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. 5-00-209

IN THE MATTER OF  
THE CITY OF FOLSOM  
SACRAMENTO COUNTY

This Order is issued to the City of Folsom (hereafter City), based on discharges of pollutants without waste discharge requirements, a violation of Section 13376 of the California Water Code (CWC). Imposition of Administrative Civil Liability is authorized pursuant to Section 13385 of the CWC.

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

1. The City owns and operates a wastewater collection system providing sewerage service to users within the incorporated City. Wastewater emanating from the City is transported to the Sacramento Regional County Sanitation District for treatment and disposal. The City does not have Waste Discharge Requirements for its wastewater collection system.
2. Over a two-day period from 24 to 25 January 2000, during heavy rains, the City experienced a series of raw sewage spills to Willow Creek, a tributary to the American River at Lake Natoma. Lake Natoma is a body contact water recreational area and houses the California State University at Sacramento Aquatics Center.
3. The spills originated from an emergency storage basin located at the City's Pump Station No. 1. The City reported the volume of overflow as 700,000 gallons.
4. The City notified the Regional Board of the spill on 25 January, over 24 hours after it began. The spill was not reported to the Regional Board in a timely manner. The City's incident report stated that lack of appropriate managerial personnel contributed to the notification problem.
5. On 15 March 2000, the City stated the spill was unavoidable because the storm even was in excess of a 100 year, 24-hour event. On 14 June 2000, the City subsequently reduced the magnitude of the storm to a 50-year, 24-hour event.
6. The following is a history of recent spills at Pump Station No. 1:

<u>Date</u>	<u>Volume of raw sewage spilled, gallons</u>
1/10/95	84,000
1/2/97	650,000
2/3/98	Unknown
1/24/00	700,000

7. California Water Code Section 13385 states, in part, the following:

*“(a) Any person who violates any of the following shall be liable civilly in accordance with this section:*

*(1) Section 13375 or 13376.*

*(5) Any requirements of Section 301, 302, 306, 307, 308, 318, or 405 of the Federal Water Pollution Control Act, as amended.*

*“(c) Civil liability may be imposed administratively by the State Board or a Regional Board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:*

*(1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.*

*(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.*

*“(e) In determining the amount of any liability imposed under this section, the Regional Board, the State Board, or the Superior Court, as the case may be, shall take into account the nature, circumstances, extent, and gravity of the violation, and, with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic benefits or saving, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.”*

8. On 24 July 2000, the Executive Officer issued a Complaint to the City proposing a \$700,000 Administrative Civil Liability for violations of Section 13376 of the California Water Code.

9. On 15 September 2000, in Sacramento, California, after due notice to the City and other affected parties, the Board conducted a public hearing at which representatives of the City appeared and evidence was received concerning the violations.

10. The Board, after hearing all testimony, determined the City is liable civilly. In determining the amount of civil liability the following factors have been taken into consideration:

*“...the nature, circumstances, extent, and gravity of the violation, and, with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic benefits or saving, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.” [Water Code Section 13385(e)]*

11. The Board determined, with respect to the factors in Finding No. 10, the following:

The City had knowledge of the inadequacy of the pump station to contain peak wet weather flows. The pump station had a history of overflows. Various engineering reports had stated this fact and had provided options to upgrade Pump Station No. 1 to either fully mitigate or to minimize the raw sewage discharges. The City chose to wait for the Sacramento Regional County Sanitation District to construct a gravity pipeline that bypassed Pump Station No. 1. The pipeline was completed in February 2000. However, the upgrade of Pump Station No. 1 should have been in operation by 1995, the year the sewage overflows began.

The City derived economic benefit in the amount of three hundred forty-seven thousand eight hundred sixty dollars (\$347,860), which is the interest earned on the construction costs of the pipeline bypassing Pump Station No. 1 since 1995. The cost to construct the pipeline bypassing Pump Station No. 1 was \$2,463,611.

The Board incorporates by reference the staff report evaluating the requirements of Water Code Section 13385(e) as findings in this Order.

12. A \$700,000 Administrative Civil Liability is appropriate based on the determinations in Finding No. 11.
13. Staff costs associated with processing this Administrative Civil Liability action exceed \$10,000.
14. Issuance of this Order 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.
15. Any person affected by this action of the Board may petition the State Water Resources Control Board (State Board) to review this action. The petition must be received by the State Board within 30 days of the date on which this Order was adopted by the Board. Copies of the law and regulations applicable to filing petitions will be provided upon request.

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IT IS HEREBY ORDERED that the City of Folsom pay \$700,000 in accordance with California Water Code Section 13385.

I, GARY M. CARLTON, 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 15 September 2000.

for Thomas R Pinkos  
GARY M. CARLTON, Executive Officer

**Thomas R. Pinkos**  
**Assistant Executive Officer**