



California Regional Water Quality Control Board Central Valley Region

Steven T. Butler, Chair



Gray Davis
Governor

Winston H. Hickox
Secretary for
Environmental
Protection

Sacramento Main Office
Internet Address: <http://www.swrcb.ca.gov/~rwqcb5>
3443 Routier Road, Suite A, Sacramento, California 95827-3003
Phone (916) 255-3000 • FAX (916) 255-3015

2 November 2000

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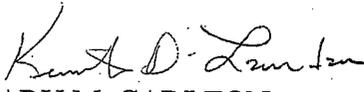
Mr. Mario Biagi, Chair
Amador County Board of Supervisors
500 Argonaut Lane
Jackson, Ca 95642-9534

TRANSMITTAL OF ORDER NO. 5-00-253, ADMINISTRATIVE CIVIL LIABILITY, BUENA VISTA LANDFILL, AMADOR COUNTY

Enclosed is Order No. 5-00-253, which was adopted at the 27 October 2000 Board meeting.

According to Section 13323(d) of the California Water Code, this Order is effective upon the date of adoption, and payment is due within 30 days from that date. Therefore, by **27 November 2000**, the County of Amador must submit a \$25,000 check made out to the *State Water Resources Control Board* to this office. For tracking purposes, indicate the number of the Complaint and the name of the site on the check.

If you have any questions, please call Howard Hold at (916) 255-3379.

for 
GARY M. CARLTON
Executive Officer

Enclosure: Order No. 5-00-523

cc: Ms. Virginia Rosales, California Integrated Waste Management Board, Sacramento w/enclosure
Ms. Lisa Babcock, State Water Resource Control Board, Sacramento w/enclosure
Ms. Frances McChesney, Counsel, State Water Resource Control Board, Sacramento w/enclosure
Mr. John Norton, State Water Resource Control Board, Sacramento w/enclosure
Ms. Mark Bradley, Regional Water Quality Control Board, Sacramento w/enclosure
Ms. Margaret Blood, Amador County Environmental Health Department, Jackson w/enclosure
Mr. Trevor Mottinshaw, Amador County General Services Department w/enclosure
Mr. Dennis Grady, Amador County Waste Management Office w/enclosure

California Environmental Protection Agency

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ACL ORDER NO. 5-00-253

ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF
COUNTY OF AMADOR
BUENA VISTA LANDFILL
AMADOR COUNTY

This complaint is issued to the County of Amador for the Buena Vista Landfill, (hereafter referred to as Discharger), based on a finding of violation of Waste Discharge Requirements (WDRs) Order No. 5-00-169 and Monitoring and Reporting Program No. 5-00-169 and provisions of California Water Code (CWC) Section 13268(a) and (b) which authorize the imposition of Administrative Civil Liability (ACL).

The Executive Officer finds, with respect to the Discharger's acts and failure to act, the following:

1. On 24 November 1999, the Regional Board received from the Discharger the 1999 Second Quarter Monitoring Report, which was submitted 137 days past the 15 July 1999 due date as required by the Standard Provisions of the WDRs. Staff reviewed the submitted report and determined that it was incomplete. By letter dated 24 January 2000, an addendum was to be submitted to the Regional Board by 21 February 2000. As of 13 September 2000, this required amended report has yet to be submitted.
2. On 29 December 1999, the Regional Board received from the Discharger the 1998 Annual Monitoring Report, which was submitted 348 days past the 15 January 1998 due date as required by the Standard Provisions of the WDRs. Staff reviewed the submitted report and determined that it was incomplete. By letter dated 24 January 2000, an addendum was to be submitted to the Regional Board by 21 February 2000. As of 13 September 2000, this required amended report has yet to be submitted.
3. On 14 January 2000, the Regional Board received from the Discharger the 1999 Third Quarter Monitoring Report, which was submitted 91 days past the 15 October 1999 due date as required by the Standard Provisions of the WDRs. Staff reviewed the submitted report and determined that it was incomplete. By letter dated 10 February 2000, an addendum was to be submitted to the Regional Board by 13 March 2000. As of 13 September 2000, this amended report has yet to be submitted.
4. On 7 March 2000, the Discharger was issued a Notice of Violation (NOV) for non-submittal of the Fourth Quarter 1999 Monitoring Report; the Sampling and Analysis Plan; and the Water Quality Objectives. Because of the numerous outstanding reports presented in the NOV, a schedule of compliance was to be submitted no later than 30 March 2000. The requested schedule has not been submitted as of 13 September 2000.
5. As a result of the 7 March 2000 NOV, a Sampling and Analysis Plan was submitted to the Board on 10 March 2000. After Staff reviewed the Sampling and Analysis Plan, it was deemed incomplete.

Staff provided review comments to the Discharger on 16 March 2000 and requested an amended Sampling and Analysis Plan to be submitted by 10 April 2000. As of 13 September 2000, this amended report, or a final version of the Water Quality Standards has yet to be submitted.

6. On 12 May 2000, the Regional Board received from the Discharger the 1999 Fourth Quarter Monitoring Report, which was submitted 118 days past the 15 January 2000 due date as required by the Standard Provisions of the WDRs. Staff reviewed the submitted report and determined that it was incomplete. By letter dated 24 January 2000, an addendum was to be submitted to the Regional Board by 7 July 2000. As of 13 September 2000, this required amended report has yet to be submitted.
7. On 13 July 2000, the Discharger was issued a letter pursuant to Section 13267 of the Porter-Cologne Water Quality Control Act (Act) that required the Discharger, in part, to furnish, under penalty of perjury, by 7 August 2000: the amended Fourth Quarter 1999 Monitoring Report; the First Quarter 2000 Monitoring Report; and the results from the Five-Year sampling event presented in their MRP. This letter informed the Discharger: "Pursuant to section 13267 of the Act any person failing or refusing to furnish technical or monitoring program reports as required may be civilly liable. Civil liability may be administratively imposed by the Regional Board in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs." As of 13 September 2000, these required reports have yet to be received by the Regional Board.
8. On 14 September 2000, the Executive Officer issued a Complaint to the Discharger proposing a twenty-five thousand dollar (\$25,000) Administrative Civil Liability for the violation of CWC Section 13267.
9. On 29 September 2000, the 1st Quarter and Annual Monitoring Reports were submitted and the data for the five-year review with no accompanying required evaluation. The submitted reports were incomplete and therefore violate the WDRs for reporting. Also, the validity of the lab analyses is questionable because of quality control issues.
10. Water Code 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).
11. Water Code 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
12. Water Code Section 13268(b)(1) authorizes Administrative Civil Liability not exceeding one thousand dollars (\$1,000) for each day of failure to submit monitoring reports as required by

subdivision (b) of Section 13267. As of 13 September 2000, the Discharger has failed to submit the technical and monitoring reports that were due by 7 August 2000. The maximum liability for this non-submittal of technical and monitoring reports is one hundred eleven thousand dollars (\$111,000). There is no minimum liability that is required to be imposed under Section 13268(b)(1).

13. The Board, after hearing all testimony, determined the Discharger is civilly liable. In determining the amount of civil liability, the following factors have been taken 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 the ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation and other matters as justice may require."
[Water Code Section 13327].

14. The Board determined, with respect to the factors in Finding 10, the following:

The nature of the violation is that two monitoring reports required by the Board pursuant Section 13267 of the CWC were not submitted until a ACL Complaint was issued. The submitted reports were inadequate and did not meet the requirements of dischargers WDRs. The Five-Year Sampling Event Report was never submitted. However, the data was submitted as part of the 1999 Annual Report. The circumstances are such that the Discharger was aware of the necessity to provide monitoring reports in a timely manner and complete according to their WDRs.

The extent of the violation is that staff requested that monitoring reports be submitted on time and complete on numerous occasions. On 13 July 2000, staff requested pursuant to Section 13267 of the Porter Cologne Water Quality Control Act that the following reports be submitted by 7 August 2000: Amended Fourth Quarter 1999 monitoring report; First Quarter 2000 monitoring report; and the results from the required Five-Year sampling event. The ACL Complaint was issued on 14 September 2000 for non-submittal of the reports. The reports were received on 29 September 2000, however they were incomplete. The Discharger's failure to act in a timely manner with complete reports has resulted in an increased threat to water quality.

The gravity of the violation is that failure to submit the required monitoring reports in a timely and complete manner has prevented staff from assessing the potential and actual threat to the waters of the State of California.

The Discharger has an extensive history of non-compliance for non-submittal of reports, violations related to their Class II Surface Impoundment and illegal discharges of designated waste to land.

The Discharger is responsible for managing a landfill that contains two Class II Waste Management Units, a Class II Surface Impoundment and the post-closure monitoring of a Class III Waste Management Unit, and is culpable for the violations cited as it received several notifications regarding submitting monitoring reports in a timely manner and completely in accordance with their

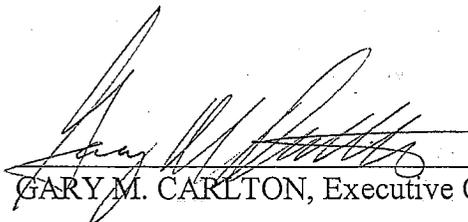
WDRs. The Discharger had ample opportunity to submit and was informed what was required in submitting a complete monitoring report.

By failing to submit complete monitoring reports the Discharger realized an economic benefit by not submitting complete evaluation of their data that would include graphic presentation. There may be other matters that justice requires.

15. A twenty-five thousand dollars (\$25,000) Administrative Civil Liability is appropriate based on the determinations in Findings No. 12 and 14.
16. Staff costs associated with processing this Order are approximately seven thousand dollars (\$7,000).
17. 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.
18. 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.

IT IS HEREBY ORDERED that the County of Amador for Buena Vista Landfill pay twenty-five thousand dollars (\$25,000) in accordance with California Water Code Section 13268 and Section 13323.

I, GARY M. CARLTON, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 27 October 2000.


GARY M. CARLTON, Executive Officer