

**STATE OF CALIFORNIA  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION**

**CLEAN-UP AND ABATEMENT ORDER NO. R4-2003-0065  
REQUIRING COASTAL BERRY COMPANY, LLC  
TO UNDERTAKE ACTIONS  
TO REDUCE COLIFORM LOADING TO McGRATH STATE BEACH  
(File No. 03-045)**

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds:

**Discharger**

1. The Coastal Berry Company, LLC (Discharger) operates a 470-acre farm at 5701 Gonzales Road, Ventura, California. This farm uses approximately 80% of its acreage for strawberry production and the remaining area for vegetable production, and is located east of and in close proximity to McGrath Lake, a 10-acre coastal lake located between Harbor Boulevard to the east and the dunes of McGrath Beach to the west approximately 200-feet from the shoreline. McGrath Lake is located both on McGrath State Beach (McGrath Beach) and on property owned by the McGrath Family.

**Nature of Condition of Pollution or Nuisance**

2. The Discharger discharges wastewaters from McGrath Lake in order to maintain the lake level within a specified range thereby preventing flooding of land adjacent to the Lake. The wastewater is discharged by a pump system operated by the Discharger from McGrath Lake through two parallel pipelines onto McGrath Beach approximately one mile south of the Santa Clara River where it flows to the Pacific Ocean, a water of the United States.
3. McGrath Lake is fed by agricultural wastewater from the Discharger's farm and other farms in the McGrath Lake subwatershed, stormwater, dry-weather runoff and groundwater. The wastewater discharged from McGrath Lake contains a high level of coliform bacteria and is known to exhibit toxicity. The Discharger has provided Regional Board staff data on discharge water quality and pump volume. Up to 10.1 million gallons per day (MGD) of wastewater is discharged from McGrath Lake onto McGrath Beach during wet weather and an average of 0.6 MGD during dry weather.

**Description of Affected Waters**

4. The following beneficial uses are established for McGrath Beach in the Water Quality Control Plan, Los Angeles Region (Basin Plan): water contact recreation (REC-1), non-contact water recreational (REC-2), industrial service supply, navigation, commercial and sport fishing, marine habitat, wildlife habitat, biological habitat preserve, rare and endangered species habitat support, migration of aquatic organisms, spawning and reproduction of aquatic organisms, and shell fish harvesting.

July 14, 2003

5. The number of visitors to McGrath Beach varies from approximately 1,400 per month in the winter to 16,000 per month in the summer. McGrath Beach also has a campground, approximately one-mile north of the lake discharge location that contains 146 campsites. These sites are routinely fully occupied during the summer.
6. Ventura County Environmental Health Division (VC/EHD) samples McGrath Beach approximately 50 yards from the location where the Discharger's discharge meets the tide. This sampling has provided data evidencing that McGrath Beach does not meet total coliform objectives.

#### **Description of Coliform Impairment at McGrath Beach**

7. McGrath Beach is listed on the EPA's 1998 Water Quality Assessment 303 (d) list and the 2002 303 (d) list as impaired for total coliform for REC-1. It does not meet total coliform single sample or geomean objectives for REC-1. For total coliform at this site, 23% of the single samples exceeded the existing objective of 1,000/100 milliliter (mL). Also for total coliform at this site, 12% of samples exceeded the proposed single sample objective of 10,000/100 mL and 16% of the geomean data sets exceeded the proposed geomean objective of 1,000/100 mL. Regional Board staff have sampled and analyzed the Discharger's discharge. The discharge typically exceeds Basin Plan and Ocean Plan water quality objectives for total coliforms.
8. Regional Board staff prepared an analysis of coliform impairments of McGrath Beach, including source and linkage analyses. These analyses show the discharge from McGrath Lake causes the impairment of McGrath Beach by coliforms. Local and national epidemiological studies compel the conclusion that there is a causal relationship between adverse health effects, such as gastroenteritis and upper respiratory illness, and recreational water quality, as measured by bacteria indicator densities. An improvement in the quality or method of disposal of the discharge is required in order to abate the effects of bacterial pollution emanating from the pump and to attain existing water quality standards for coliforms at McGrath Beach.
9. The Regional Board staff's TMDL analysis resulted in a wasteload allocation (WLA) of  $1.92 * 10^{11}$  MPN/day<sup>1</sup> for the discharge from McGrath Lake. Regional Board staff developed this Order to achieve the final wasteload allocation for bacteria discharged from McGrath Lake. Full implementation of this Order will achieve the final wasteload allocation. This WLA will implement water quality objectives during critical conditions. In addition to the WLA, the TMDL analysis allocated loads of  $4.87 * 10^{12}$  to the Santa Clara River and a wasteload allocation of  $5.7 * 10^{12}$  for the Mandalay Generating Station.

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<sup>1</sup>  $1.92 * 10^{11}$  is equal to  $1.92 * 10^{11}$ , or  $1.92 * 10^{11}$ .

10. A further description of the Discharger's operation, existing water quality conditions, the pollution to be abated, and the nature of the waste can be located in the "Total Maximum Daily Loads For Santa Clara River Estuary Beach/Surfers' Knoll, McGrath State Beach, And Mandalay Beach Coliform and Beach Closures" (TMDL) which is attached to this Cleanup and Abatement Order and incorporated herein by reference.
11. The Discharger is an active participant in the McGrath Lake Watershed Action Committee (WAC). The WAC includes stakeholders in the McGrath Lake Subwatershed and is undertaking studies to develop a watershed action plan for the McGrath Lake subwatershed. One option that the WAC is evaluating to address beneficial use impairments in the McGrath Lake subwatershed is to eliminate discharge of wastes into McGrath Lake and the discharge of wastewater from McGrath Lake to McGrath Beach. The Watershed Action Committee is scheduled to complete its evaluation by the end of 2004.

#### **Applicable Laws and Regulations**

12. California Water Code section 13304(a) provides in pertinent part that: "Any person ... 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. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant."
13. The California Ocean Plan (2001) Section III.A.2.d states, "Location of waste discharges must be determined after a detailed assessment of the oceanographic characteristics and current patterns to assure that:
  - (1) Pathogenic organisms and viruses are not present in areas... used for swimming or other body-contact sports."
14. The California Ocean Plan (2001) Section III.A.2.e states, "Waste that contains pathogenic organisms or viruses should be discharged a sufficient distance from... water-contact sports areas to maintain applicable bacterial standards without disinfection. Where conditions are such that an adequate distance cannot be attained, reliable disinfection in conjunction with a reasonable separation of the discharge point from the area of use must be provided. Disinfection procedures that do not increase effluent toxicity and that constitute the least environmental and human hazard should be used."

15. The Basin Plan establishes water quality objectives in marine waters for the protection of the water contact recreation (REC-1) use. The State Board approved the Regional Board's Basin Plan amendment on July 18, 2002 (State Board Resolution 2002-0142), the Office of Administrative Law approved it on September 19, 2002 (OAL File No. 02-0807-01-S), and the US EPA approved it on September 25, 2002. Basin Plan objectives for marine waters serve as numeric targets for bacteria at McGrath Beach in the accompanying TMDL. The Basin Plan objectives for bacteria in marine waters designated for water contact recreation are:

1. Geometric Mean

- a. Total coliform density shall not exceed 1,000/100mL
- b. Fecal coliform density shall not exceed 200/100mL
- c. Enterococcus density shall not exceed 35/100mL

2. Single Sample Objectives

- a. Total coliform density shall not exceed 10,000/100mL
- b. Fecal coliform density shall not exceed 400/100mL
- c. Enterococcus density shall not exceed 104/100mL
- d. Total coliform density shall not exceed 1,000/100mL, if the ratio of fecal-to-total coliform exceeds 0.1.

15. The discharge does not currently meet the water quality objective for total coliforms. Therefore, this Order includes an implementation schedule to allow the Discharger to evaluate and implement interim measures to meet the water quality objective for total coliform.

16. VC/EHD collects weekly samples in compliance with AB 411. This law which went into effect in 1997, requires local governments collect weekly samples to document pathogen levels along coastal areas. VC/EHD collects samples weekly both during the AB 411 season (April 1 to October 31) as well as the rest of the year.

17. This action is being taken for the protection of the environment to enforce general rules, standards, or objectives, and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et. seq.) in accordance with the California Code of Regulations, title 14, section 15321.

**IT IS HEREBY ORDERED** that, pursuant to California Water Code sections 13267 and 13304, the Coastal Berry Company, LLC, as operator of the McGrath Lake wastewater discharge system, shall undertake the following activities to investigate and to abate the discharge and threatened discharge of waste to coastal waters:

1. Submit a technical report that evaluates and proposes interim measures to meet the coliform objectives for McGrath Beach for Regional Board Executive Officer (Executive Officer) approval. The interim measures to be evaluated include, but are not limited to: relocating the intake to the discharge pump, relocating the outfall offshore, diverting the discharge to a Publicly Owned Treatment Works (POTW) during dry weather, disinfecting the discharge, and ceasing the discharge. This technical report must be certified by a registered Civil engineer and submitted to the Regional Board within 120 days of the date of issuance of this Cleanup and Abatement Order (CAO).
2. Upon receipt and approval of the aforementioned technical report by the Executive Officer, the Executive Officer will revise this CAO to set a schedule of implementation of the interim method approved by the Executive Officer.
3. Submit a technical report that evaluates and proposes measures to meet final requirements for waste discharge to coastal waters for Executive Officer approval. The technical report shall include at a minimum a complete characterization of the waste discharge for conventional, toxic and priority pollutants. This technical report shall also include an analysis of measures that meet requirements in wet and dry weather. This technical report must be certified by a registered Civil engineer and submitted to the Regional Board within 365 days of the date of issuance of this CAO.
4. In accordance with the aforementioned technical report and approval by the Executive Officer, implement the measures to meet requirements for waste discharge to coastal waters within 3 years of the date of the approval.
5. Implement a monitoring program to include, but not be limited to, coliform characterization of the discharge and receiving waters using Assembly Bill 411 guidelines with samples collected at wave wash and at the discharge point on the same day. An alternate method approved may by the Executive Officer. Monitoring reports shall be submitted on a quarterly basis according to the following schedule and shall be certified by a registered Civil engineer. The first report shall be due October 15, 2003.

**Reporting Period**

**Report Due**

January - March

April 15

April - June

July 15

July - September

October 15

October - December

January 15

6. Cease discharge of water from McGrath Lake by three years after this CAO is issued or, if the Discharger chooses to continue discharging, submit a Report of Waste Discharge on or before three years after the date this CAO is issued. The Discharger shall not exceed the Waste Load Allocation (WLA) for McGrath Lake discharge of  $1.92 * 10^{11}$  [UNIT] as stated in the Staff Report as well as all water quality standards as stated in the Basin Plan and the Ocean Plan.
7. If, in the course of implementing interim or final measures, the Discharger encounters delays beyond the Discharger's control, the Executive Officer, at his discretion, may provide an extension not to exceed a period of 6 months, to complete implementation of the measures.
8. The Regional Board's authorized representative(s) shall be allowed:
  - Entry upon premises where a regulated facility or activity is located or conducted, or where records are stored, under the conditions of this CAO;
  - Access to copy any records that are stored under the conditions of this CAO;
  - Access to inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this CAO; and
  - The right to photograph, sample, and monitor the site for the purpose of ensuring compliance with this CAO, or as otherwise authorized by the California Water Code.
9. This CAO is not intended to permit or allow the Discharger to cease any work required by any other order issued by the Regional Board; nor shall it be used as a reason to stop or redirect any investigation or cleanup or remediation programs ordered by the Regional Board or any other agency. Furthermore, this CAO does not exempt the Discharger from compliance with any other laws, regulations, or ordinances which may be applicable, nor does it legalize these waste treatment and disposal facilities, and it leaves unaffected any further restrictions on those facilities which may be contained in other statutes or required by other agencies.
10. The Discharger shall submit 30-day advance notice to the Regional Board of any planned changes in name, ownership, or control of the facility; and shall provide 30-day advance notice of any planned physical changes to the site that may affect compliance with this CAO. In the event of a change in ownership or operator, the Discharger also shall provide 30-day advance notice, by letter, to the succeeding owner/operator of the existence of this CAO, and shall submit a copy of this advance notice to the Regional Board.
11. The Regional Board, through its Executive Officer, may revise this CAO as additional information becomes available. Upon request by the Discharger, and for good cause shown, the Executive Officer may defer, delete or extend the date of compliance for any action required of the Discharger under this CAO. The authority of the Regional Board, as contained in the California Water Code, to order investigation and cleanup, in addition to

that described herein, is in no way limited by this CAO.

12. Pursuant to California Water Code section 13320, the Discharger may seek review of this CAO by filing a petition with the State Water Resources Control Board (State Board). Such a petition must be received by the State Board, located at P.O. Box 100, 1001 I Street, Sacramento, California, 95814, within 30 days of the date of this Order.
13. Failure to comply with the terms or conditions of this CAO may result in imposition of civil liabilities, imposed either administratively by the Regional Board or judicially by the Superior Court in accordance with sections 13308 or 13350 et seq. of the California Water Code, and/or referral to the Attorney General of the State of California for injunctive relief pursuant to section 13304. Penalties may be assessed up to \$10,000 per day that the violation occurs.
14. None of the obligations imposed by this CAO on the Discharger are intended to constitute a debt, damage claim, penalty or other civil action which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of California intended to protect the public health, safety, welfare and environment.

Ordered by: Original signed by  
Dennis A. Dickerson  
Executive Officer

Date: July 14, 2003