

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER No. 99-047

ORDER SETTING ADMINISTRATIVE CIVIL LIABILITY FOR:

**TURK ISLAND COMPANY
TURK ISLAND CLASS III LANDFILL
UNION CITY
ALAMEDA COUNTY**

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter called the Board), finds that:

1. The Turk Island Company is the legal owner and operator of the inactive Turk Island Landfill. Turk Island Company is owned by Bennett Reynolds and Joseph Smith. Turk Island Company is hereinafter referred to as the discharger. The landfill operates under Waste Discharge Requirements Order No. 97-026 issued by the Board in February 1997.
2. The landfill is located approximately ¼-mile west of Union City Boulevard, in the southwest portion of Union City. The inactive landfill consists of the primary parcel which occupies approximately 47 acres and two smaller 6.5 and 3.2 acre parcels. In 1998, the 3.2 acre parcel was sold, all waste was removed, and single family homes were constructed.
3. On April 2, 1999, the Executive Officer issued Compliant No. 99-012 for Administrative Civil Liability to the dischargers alleging that Turk Island Company violated Water Code Section 13267 by failing to submit a technical report. Details of the violation are described below. Complaint No. 99-012 was reissued as Complaint 99-040 on June 6, 1999.
4. On March 30, 1998, the Executive Officer requested Turk Island Company to submit a technical report, under authority of Water Code Section 13267. The company was ordered to submit a leachate management plan by May 15, 1998. On May 15, 1998, Turk Island Company submitted a letter which requested an extension of the May 15, 1998 submittal due date to June 5, 1998. The discharger has yet to submit the required May 15, 1998 leachate management plan. As of March 25, 1999 the leachate management plan is 315 days late.
5. The Board, after hearing all testimony, determined that the dischargers are liable civilly and, in accordance with Water Code Section 13268, considered the following factors in determining the amount of liability:
 - a. Extent and Gravity of the Violations: While the violations have not resulted in significant water quality impacts, the delays of over 315 days for the leachate

management plan submittal will cause a corresponding or longer delay in the correction of landfill leachate problems. The delay in implementation of a leachate management plan allows leachate to continue to migrate out of the landfill and toward the adjacent San Francisco Bay and to continue to contribute to landfill gas generation. While the leachate exhibits low flows and low exceedances of water quality standards, no exceedance is acceptable.

- b. Susceptibility to Cleanup or Abatement: The violations are for failure to submit a technical reports, and are not susceptible to cleanup or abatement. The discharges of leachate, however, are susceptible to abatement.
- c. Degree of Toxicity of the Discharge: The violations are for failure to submit a technical report and do not directly involve a discharge. The toxicity of the discharge has not been documented.
- d. Economic Savings Resulting From the Violation: There have been unquantified savings from delaying the implementation of permanent leachate control measures at the landfill and from failure to prepare requested reports and adequately address the problems.
- e. Ability to Pay and Effect on Ability to Stay in Business: The landfill no longer receives revenue since it is inactive. However, Turk Island Company has received revenue from the sale of over 50-acres of Turk Island Company property to developers. Additionally, Turk Island Company could sell the 6.5 acre parcel to developers. Assessment of the maximum fine of \$1,000 per day for late report submittal could seriously harm the discharger and prevent or limit improvements to the landfill. However, the recommended fine of \$25,000 is low enough that the discharger would probably be able to pay, yet high enough to provide an incentive to the discharger to comply with Water Code Section 13267 requests in the future.
- f. Prior History of Violations: There have been no previous enforcement actions against Turk Island Company.
- g. Degree of Culpability: The discharger was aware that reports were overdue, and apparently made no effort to submit them.
- h. Voluntary Cleanup Efforts: The violation is not amenable to cleanup.
- i. Other Matters as Justice May Require: This Board is not aware of other matters which need to be considered.

5. The maximum civil liability which can be imposed by the Regional Board under Section 13268 of the California Water Code is \$1,000 per day for each day of violation. Complaint No. 99-012 alleges that there has been a total of 315 days of violations for the period from May 15, 1998 to March 25, 1999. The Complaint (Appendix B) is based on 315 days of violation, thus yielding a maximum fine of \$315,000. However, as of the date of the Tentative Order (May 25,1999), the required report is still overdue. Therefore, the maximum fine as of the date of the Tentative Order is \$376,000 based on 376 days of violation.
6. This action is an Order to enforce the laws and regulations administered by the Board. This action is categorically exempt from the provisions of CEQA pursuant to Section 15321 of the Resources Agency Guidelines.
7. The Board has notified the dischargers and all interested agencies and persons that it would hold a public hearing on this matter and has provided them with an opportunity to submit written comments.
8. The Board, at a public hearing, heard and considered all comments pertaining to this discharge.

IT IS HEREBY ORDERED, PURSUANT TO CALIFORNIA WATER CODE SECTION 13268, that the dischargers are civilly liable for this violation and shall pay administrative civil liability in the amount of \$25,000. The liability shall be paid to the State Water Pollution Cleanup and Abatement Account within 30 days of the date of this Order.

I, Loretta K. Barsamian, Executive Officer, do hereby certify that the foregoing is a full, complete, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on June 16, 1999.


Loretta K. Barsamian
Executive Officer