

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2006-0065

CEASE AND DESIST ORDER
REQUIRING
COUNTY OF FRESNO AND RIVER RANCH, L.L.C.
MENDOTA SOLID WASTE DISPOSAL SITE
FRESNO COUNTY

TO CEASE AND DESIST
FROM VIOLATING WASTE DISCHARGE REQUIREMENTS

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Central Valley Water Board), finds that:

1. The County of Fresno maintains an inactive municipal solid waste disposal site (hereafter Mendota Landfill) on land covering two parcels. One parcel is owned by the County of Fresno, with a smaller parcel owned by River Ranch, L.L.C. (River Ranch), a California limited liability company. The County of Fresno and River Ranch are hereafter jointly referred to as Discharger. The Mendota Landfill is about 1.5 miles northeast of the City of Mendota, in Section 29, T13S, R15E, MDB&M. The 22-acre facility consists of one existing unlined waste management unit (Unit) covering approximately 21 acres. The facility is regulated under Waste Discharge Requirements, Order No. R5-2002-0199, as a Class III waste disposal site that had received municipal and inert solid wastes in accordance with Title 27, California Code of Regulations, §20005, et seq. (Title 27).
2. The Discharger proposed clean-closure of the Mendota Landfill in a letter dated 26 September 2001. The Discharger subsequently proposed a timeline to complete clean-closure of the landfill and for the submission of a Final Closure Report in a letter dated 28 February 2002. The Discharger's 28 February 2002 letter stated that the proposed timeline for completing clean-closure was based on the significant projected costs for completion of the project and the time needed to develop funding. The proposed timeline was incorporated into Order No. R5-2002-0199 (see Finding No. 3, below).
3. On 18 October 2002, the Central Valley Water Board adopted Waste Discharge Requirements, Order No. R5-2002-0199 for the Mendota Landfill (WDRs). Provision F.12. of the WDRs requires the Discharger to implement and complete clean-closure of the landfill in accordance with the Discharger's proposed timeline, including the following:

<u>Task</u>	<u>Compliance Date</u>
“f. Complete Clean-Closure	
Complete clean-closure activities in accordance with approved clean-closure plan (see Clean-Closure Specification C.2.).	30 October 2005

<u>Task</u>	<u>Compliance Date</u>
g. Final Closure Report	
Submit a final closure report for Executive Officer review and approval, demonstrating clean-closure in accordance with the approved clean-closure plan and Title 27 (see Clean-Closure Specification C.3.)”	30 December 2005
4. In a letter dated 13 August 2004, the Discharger requested a time extension of up to four years for completion of clean-closure activities. The Discharger’s 13 August 2004 letter states that the San Joaquin Valley Air Pollution Control District is requiring the County to perform the clean-closure fieldwork in at least three phases, not to be performed during the hottest months of the year, due to the estimated nitrogen oxide emissions from the project. In addition to these imposed limitations, the Fresno County Board of Supervisors had withdrawn funding for the closure. The Discharger therefore requested that Central Valley Water Board staff grant an extension of time for completing the clean-closure project to 31 October 2009, and 31 December 2009 for submitting the closure report (a four-year extension to Order No. R5-2002-0199). By letter of 8 October 2004, staff informed the Discharger that staff cannot grant an extension of time for deadlines contained in adopted waste discharge requirements.	
5. Section 21110(b) of Title 27 states that closure activities shall adhere to the time frames specified in the approved closure plan. The proposed Clean-Closure Plan, approved on 8 October 2004, specified time frames including completion of the first phase in 2004 and completion of the second phase in 2005. These time frames were accepted on the basis that all clean-closure activities could be completed within the constraints of the time schedule required by the WDRs (see Finding Nos. 6 and 7, below).	
6. Clean-Closure Specification C.2. and Provision F.12.f. of the WDRs require the Discharger to complete clean-closure activities at the Mendota Landfill in accordance with the approved clean-closure plan by 30 October 2005. The Discharger has neither implemented nor completed clean-closure activities to date.	
7. Clean-Closure Specification C.3. and Provision F.12.g. of the WDRs require the Discharger to submit a final closure report for Executive Officer review and approval, demonstrating that clean-closure was completed in accordance with the approved clean-closure plan and Title 27, by 30 December 2005. The Discharger has not submitted the final closure report to date.	
8. As a result of the events and activities described in this Order, the Central Valley Water Board finds that the Discharger is in violation of Waste Discharge Requirements, Order No. R5-2002-0199, and of Title 27, California Code of Regulations, §20005, et seq.	

9. The Mendota Landfill is about one mile southeast of the Mendota Dam, which creates a pool along the Fresno Slough. The landfill is immediately south and west of this pool. Surface drainage from the Mendota Landfill is to the north and east towards the Fresno Slough. In addition, the City of Mendota owns and operates a wastewater treatment facility located approximately 1,500 feet west of the landfill. A series of associated wastewater disposal ponds are located to the west, within 1,000 feet of the landfill.
10. The first encountered groundwater is about five to twenty feet below the native ground surface. Groundwater elevations range from about 150 feet MSL to 130 feet MSL. The groundwater is unconfined. The depth to groundwater fluctuates seasonally as much as fifteen feet. The direction of groundwater flow is toward the southwest, and varies seasonally and periodically flows toward the south. Local factors affecting groundwater flow beneath the site are principally groundwater pumpage, and recharge from the Fresno Slough, the Mendota Pool, and the wastewater disposal ponds. The average groundwater gradient is approximately 0.004 feet per foot. The average groundwater velocity is approximately one foot per year.
11. Groundwater detection monitoring has sporadically detected non-naturally occurring waste constituents downgradient of the facility at concentrations below any applicable Primary Maximum Contaminant Levels (MCLs). Groundwater detection monitoring has also detected statistical evidence of a release of inorganic waste constituents at levels slightly to moderately above their respective tolerance limits. Groundwater has historically encroached into and receded out of the unlined waste management unit, creating the potential for the generation of leachate and a release of waste constituents into groundwater. The potential exists for continued leachate generation via groundwater encroachment into the landfill wastes. The Discharger has not demonstrated that a reliable method exists for maintaining the minimum five-foot separation between groundwater and the base of wastes, as required by Title 27.
12. The unlined landfill has been and will periodically in the future be inundated by groundwater, providing a continuing supply of fresh leachate to groundwater and posing a continuing threat to groundwater quality. There is no feasible means to prevent the groundwater from inundating the wastes in the future due to the local conditions (see Finding Nos. 9, 10 and 11). Therefore, the only feasible means to protect groundwater from further degradation is to clean close the landfill, as stipulated in Order No. R5-2002-0199.
13. California Water Code Section 13301 states, in part, that:

When a regional board finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action.

14. California Water Code Section 13267 states, in part, that:

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, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters 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.

15. California Water Code Section 13268 states, in part, that:

(a)(1) 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). and,

(b)(1) 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.

16. The technical reports required by this Order are necessary to assure compliance with Waste Discharge Requirements Order No. R5-2002-0199 and to assure protection of public health and safety. The Discharger owns and operates this facility, and is responsible for the discharge of waste at this facility.

17. California Water Code Section 13350 states, in part, that:

(a) Any person who (1) violates any cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of any waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state, or (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e) . . .

(e) The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both.

1. The civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs . . .

(B) When there is no discharge, but an order issued by the regional board is violated, except as provided in subdivision (f), the civil liability shall not be less than one hundred dollars (\$100) for each day in which the violation occurs.

18. On _____, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order to establish a time schedule to achieve compliance with the WDRs.
19. 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 Section 15321(a)(2), Title 14, California Code of Regulations. This Order specifically addresses remedial actions necessary to cease and desist the effects of noncompliance with existing waste discharge requirements.
20. Any person adversely affected by this action of the Central Valley Water Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with Title 23, CCR Sections 2050-2068. The petition must be received by the State Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions may be found on the Internet at <http://www.waterboards.ca.gov/centralvalley> or will be provided upon request.

IT IS HEREBY ORDERED that pursuant to California Water Code, Sections 13301 and 13267, the County of Fresno and River Ranch, L.L.C., their agents, assigns and successors shall cease and desist from violating the requirements of Waste Discharge Requirements Order No. R5-2002-0199 and Title 27, California Code of Regulations, §20005 et seq. (Title 27) forthwith, and in no case later than as set forth in the following time schedules:

1. Cease and desist forthwith the existing violation of Order No. R5-2002-0199 and Title 27 as described in the above findings. "Forthwith" means as soon as reasonably possible, but in any event, no later than the compliance dates contained in this Order.
2. Compliance with No. 1 above shall include, but not necessarily be limited to, the following measures:
 - (a) **By 31 October 2009**, complete clean-closure activities at the Mendota Landfill in accordance with the clean-closure requirements of Title 27 and the clean-closure plan approved by the Executive Officer.
 - (b) **By 31 December 2009**, following the completion of clean-closure activities, submit for Executive Officer review and approval a final closure report. The report shall be certified by a registered civil engineer or a certified engineering geologist. It shall contain sufficient

information and test results to verify that clean-closure was completed in accordance with the approved clean-closure plan and Title 27.

- (c) Quarterly progress reports shall be submitted to the Central Valley Water Board in accordance with the following schedule for the calendar period in which observations were made.

<u>Reporting Periods End</u>	<u>Report Date Due</u>
31 March	30 April
30 June	31 July
30 September	31 October
31 December	31 January

IT IS FURTHER ORDERED that, pursuant to California Water Code Section 13223, if, in the opinion of the Executive Officer, the Discharger violates this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability.

I, PAMELA C. CREEDON, 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 23 June 2006.

original signed by
PAMELA C. CREEDON, Executive Officer