

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2004-0719

FOR
CITY OF PORTOLA

PORTOLA CLASS III MUNICIPAL SOLID WASTE LANDFILL

PLUMAS COUNTY

This Order is issued to the City of Portola based on provisions of California Water Code Section 13304, which authorizes the Regional Water Quality Control Board, Central Valley Region (hereafter Regional Board) to issue a Cleanup and Abatement Order.

The Executive Officer of the Regional Board finds that with respect to the City of Portola's acts, or failure to act, the following:

INTRODUCTION

1. The City of Portola (hereafter Discharger) owns and operates the Portola Class III Municipal Solid Waste Landfill in Plumas County. The 30.97 acre site, which is comprised of Assessor Parcel Numbers 025-10-023 (8.51 acres) and 025-10-026 (22.46 acres), is located 1.5 miles northeast of the City of Portola and north of State Highway 70 in the northeast quadrant of Section 30, T23N, R14E, MDB&M, as shown in Attachment "A", which is incorporated herein and made part of this Order.
2. The site was first operated by Plumas County as an open burn dump in 1968. In 1974, Plumas County, in agreement with the City of Portola, began operating the site as a sanitary landfill. On 27 May 1978, the City of Portola took over landfill operations.
3. Approximately 8 acres of the site have been used for waste disposal operations, as shown in Attachment "B", which is incorporated herein and made part of this Order. A trench-fill method of waste disposal was originally utilized at the site. The site switched to an area-fill method of waste disposal (disposing of wastes only in areas where refuse has already been placed) after issuance of Waste Discharge Requirements Order No. 90-307. The site ceased accepting wastes on 1 November 2002. An environmental reclamation center that accepts salvaged metal, waste oil and antifreeze, waste tires, and green waste now exists just east of the waste management unit.
4. Monitoring and Reporting Program No. 90-307 requires the Discharger to sample and analyze groundwater for specific chemical constituents of concern from site

- monitoring wells and from three domestic supply wells at residences within 1,500 feet of the site.
5. A 16 March 1999 Notice of Violation (NOV) was issued to the Discharger for failure to comply with detection monitoring specifications of Order No. 93-200, degrading groundwater quality beneath the landfill, failure to provide documentation of financial assurances for foreseeable releases, and failure to comply with storm water regulations. The NOV required these issues to be addressed by 7 June 1999.
 6. An 11 May 1999 Notice of Violation was issued to the Discharger based on review of self monitoring reports, which indicate that leachate has contaminated groundwater beneath the landfill. The NOV and other areas of concern were required to be addressed in a corrective action program that was due by 7 June 1999.
 7. On 9 August 1999, representatives from the City of Portola, their consultant, and Regional Board staff met to discuss appropriate response to the 16 March and 11 May 1999 Notices of Violation. The Discharger requested additional time to respond to the NOVs.
 8. An 8 May 2000 Notice of Violation was issued to the Discharger for failure to adequately respond to the two previous NOVs issued in 1999. Specifically, the Discharger failed to monitor the site in accordance with Order No. 93-200, failed to submit a Water Quality Protection Standard Report, failed to implement an evaluation monitoring program and a corrective action program in response to the release of waste from the landfill, and failed to provide financial assurances for corrective action.
 9. On 10 October 2000, the Discharger submitted a Revised Work Plan to investigate groundwater impacts and address other outstanding issues outlined in the NOVs described above. The Revised Work Plan was conditionally approved by Regional Board staff on 24 October 2000.
 10. On 21 November 2000, the Discharger notified Regional Board staff that they would be unable to comply with scheduled deadlines for investigating groundwater impacts at the site due to inclement weather. A revised schedule was proposed in a 10 January 2001 letter.
 11. From May 2001 through October 2001, the Discharger investigated groundwater pollution at the site. Investigation activities included evaluation of site hydrogeology and installation of additional groundwater monitoring wells to help delineate groundwater impacts. Sampling of the new monitoring wells identified groundwater pollution at the furthest downgradient point investigated, which is

- off-site and south of the landfill. The downgradient edge of groundwater impacts has not yet been determined.
12. On 2 November 2001, the Discharger submitted a report titled *Engineering Alternatives for Corrective Action Portola Sanitary Landfill*. In that report, the Discharger proposed site closure with installation of a synthetic cap over the Unit as the preferred remedial alternative.
 13. In a 24 October 2002 letter, the Discharger provided notice that the Portola Class III Municipal Solid Waste Landfill would cease waste disposal activities as of 1 November 2002. The letter further stated that Closure and Postclosure Maintenance Plans should be submitted by 30 March 2003.
 14. On 7 March 2003, the Discharger was issued a Notice of Violation (NOV) for failure to submit the Fourth Quarter 2002 Groundwater Monitoring Report and the 2002 Annual Monitoring Report. The NOV further reminded the Discharger that Final Closure and Postclosure Maintenance Plans were due by 30 March 2003.
 15. In a 21 April 2003 phone conversation with the Discharger's consultant, an extension for submitting the Final Closure and Postclosure Maintenance Plans by 31 October 2003 was agreed to. The Discharger submitted a 29 April 2003 letter documenting the agreement.
 16. On 10 November 2003, the Discharger submitted Final Closure and Postclosure Maintenance Plans. The Plans were determined to be inadequate and the Discharger was notified of the deficiencies in a 9 December 2003 letter. Revisions to the existing Final Closure and Postclosure Maintenance Plans were requested by 7 February 2004.
 17. In a 20 January 2004 letter, the Discharger's consultant requested an extension for submittal of the revised Final Closure and Postclosure Maintenance Plans due to the need to address comments forthcoming from the California Integrated Waste Management Board (CIWMB) and the Plumas County Solid Waste Local Enforcement Agency (LEA). On 26 January 2004, Regional Board staff granted an extension for submittal of the Final Closure and Postclosure Maintenance Plans until CIWMB and LEA comments are received.
 18. On 20 January 2004, Regional Board staff received written notification that the Final Closure and Postclosure Maintenance Plans were deemed complete by the LEA. The LEA's letter did request that the Discharger address several non-technical issues in the Plans. In a 9 March 2004 letter, the CIWMB determined that there were "no further technical comments" regarding the Final Closure and Postclosure Maintenance Plans. The letter from the CIWMB further stated that

- they were prepared to issue final approval of the plans once closure funding issues were resolved.
19. On 23 April 2004, the First Quarter 2004 and Supplemental 2003 Annual Monitoring Program Report was submitted. The report described detections of 1.4 µg/L methyl-t-butyl ether in the Mack domestic water supply well and 0.62 µg/L of chloroform in the Prinvale domestic water supply well. Both wells are located approximately 1,500 feet west and south of the landfill.
 20. On 9 June 2004, Regional Board staff contacted the Discharger's consultant and requested immediate resampling of the domestic supply wells located within 1,500 feet of the landfill. The resamples were to be analyzed for volatile organic compounds using EPA Method 8260. All QA/QC procedures were to be followed and results were to be submitted to Regional Board staff by 30 June 2004.
 21. On 1 July 2004, the Discharger provided results of the domestic well resampling event. The results identified 3.1 µg/L methyl-t-butyl ether in the Mack domestic supply well and 0.65 µg/L chloroform in the Prinvale domestic supply well. The Discharger also notified the Mack's and the Prinvale's of the volatile organic compound detections in their domestic supply wells. The notifications stated that the concentrations of organic compounds in the domestic supply wells were below U.S. Environmental Protection Agency drinking water standards and further stated that the City of Portola was investigating whether the domestic supply well contamination emanated from the landfill.
 22. On 10 August 2004, Regional Board staff obtained samples from landfill monitoring wells MW-2, MW-3, MW-4, MW-5, and MW-6. Regional Board staff also sampled private domestic wells owned by Prinvale, Cizmich, Mack, and Bailo, which are all located approximately 1,500 feet west and south of the landfill. The Discharger's consultant also obtained groundwater samples in accordance with Monitoring and Reporting Program Order No. 90-307. Regional Board sample results confirmed that volatile organic compounds have impacted groundwater passing the landfill's point of compliance. Additionally, Regional Board samples identified 3.7 µg/L of methyl-t-butyl ether in the Mack domestic supply well and 0.66 µg/L of chloroform in the Prinvale domestic supply well, which confirms groundwater impacts off-site and adjacent to the landfill.
 23. As of the date of this Order, the Discharger has implemented no corrective action measures in response to the groundwater impacts at the landfill. Domestic water supplies on private properties adjacent to the landfill are now exhibiting groundwater impacts, which may be associated with the groundwater impacts at the Portola Class III Municipal Solid Waste Landfill.

AUTHORITY – LEGAL REQUIREMENTS

24. The *Water Quality Control Plan for the Sacramento and San Joaquin River Basins, Fourth Edition* (hereafter Basin Plan), designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Resources Control Board (State Board). The Basin Plan identifies beneficial uses applicable to the Feather River and its tributaries. The listed existing or potential beneficial uses are domestic, municipal, agricultural and industrial supply; power generation; recreation; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources.
25. The Basin Plan water quality objectives for surface and ground water include the “Chemical Constituents Objective”, which states, in part, that “waters designated for use as domestic or municipal supply (MUN) shall not contain concentrations of chemical constituents in excess of the maximum contaminant levels (MCLs)” (i.e., state drinking water standards); and a narrative objective that states “All waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life. . .”. The Basin Plan contains implementation policies, including the “Policy for Application of Water Quality Objectives”. That Policy specifies, among other things, how to implement narrative water quality objectives. The Regional Board considers standards and criteria issued by other appropriate agencies, such as the United States Environmental Protection Agency, in applying narrative objectives. The chemical constituents in the wastes and leachate at the Portola Class III Municipal Solid Waste Landfill may cause or contribute to exceedances of water quality objectives in the Basin Plan if discharged to surface or ground water.
26. Section 13304(a) of the California Water Code provides that:

“Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged 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 such waste or abate the effects thereof or, in the case of threatened pollution or nuisance, take other necessary remedial action. Upon failure of any person to comply with such cleanup and 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.”

27. Section 13304(c)(1) of the California Water Code provides that:

“If the waste is cleaned up or the effects of the waste are abated, or, in the case of threatened pollution or nuisance, other necessary remedial action is taken by any governmental agency, the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of waste within the meaning of subdivision (a), are liable to that governmental agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising the cleanup or abatement activities, or taking other remedial action. The amount of the costs is recoverable in a civil action by, and paid to, the governmental agency and state board to the extent of the latter’s contribution to the cleanup costs from the State Water Pollution and Abatement Account or other available funds.”

28. Section 13267(b) of the California Water Code provides 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 of the state 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. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”

29. The City of Portola has violated Waste Discharge Requirements Order No. 90-307 and Monitoring and Reporting Program No. 90-307 for the Portola Class III Municipal Solid Waste Landfill and have caused or permitted, cause or permit, and/or threaten to cause or permit waste to be discharged where it is, or probably will be, discharged into the waters of the State and that creates, and threatens to create, a condition of pollution or nuisance as described below:

- a. Wastes and leachate from the Portola Class III Municipal Solid Waste Landfill have been released, which has impacted and degraded water quality beneath and directly downgradient of the site. A release of waste to groundwater is a violation of Waste Discharge Requirements Order No. 90-307, Prohibition A.4. Groundwater impacts have not yet been delineated. Domestic water supply wells on private property located within 1,500 feet of the landfill have been impacted by volatile organic compounds, which may have originated from the Portola Class III Municipal Solid Waste Landfill. The Discharger has been requested to prepare and implement corrective action measures in response to the groundwater impacts. The Discharger proposed landfill closure with

installation of a synthetic engineered cap over the wastes as the preferred remedial alternative. However, the Discharger has not submitted acceptable Final Closure and Postclosure Maintenance Plans for the site and corrective action measures have not yet been implemented.

30. The information and actions required by this Order are necessary to prevent further violations of WDR Order No. 90-307 and are also necessary to respond to confirmed groundwater impacts from a release of waste at the landfill. As owner and operator of the Portola Class III Municipal Solid Waste Landfill, the City of Portola is responsible for maintaining the site in compliance with applicable permits, laws, and regulations and is also responsible for implementing necessary corrective action measures in response to a release of waste.
31. 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.
32. Any person adversely affected by this action of the Regional Board may petition the State Board to review the action in accordance with Section 2050 through 2068, Title 23, California Code of Regulations. 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.swrcb.ca.gov/water_laws/cawtrcde/wqpetition_instr.html or will be provided upon request.

IT IS HEREBY ORDERED THAT, pursuant to Sections 13267 and 13304 of the California Water Code, the City of Portola (hereafter referred to as “Discharger”) shall comply as specified below:

1. Submit **by 1 December 2004** Final Closure and Postclosure Maintenance Plans that comply with applicable sections of Title 27, California Code of Regulations.
2. Provide **by 1 December 2004** parcel maps identifying properties located within 2,000 feet of the landfill. Additional information to be submitted shall include the name, mailing address, phone number of the property owners, and a description of the water supply source for the identified properties.
3. Provide **by 1 January 2005** a work plan for investigating and delineating off-site groundwater impacts. The work plan must include installation of additional permanent monitoring points in the swale west of the facility and in between the private properties and the landfill. The work plan must also propose a means of assessing the quality of groundwater supplies that service private properties located within 2,000 feet of the landfill.

4. Complete closure construction activities at the Portola Class III Municipal Solid Waste Landfill **by 15 October 2005** in accordance with an approved Final Closure and Postclosure Maintenance Plan and applicable provisions of Title 27, California Code of Regulations, Division 2. Submit to the Regional Board a final report documenting closure construction activities within 60 days of completing the closure project.

THOMAS R. PINKOS, Executive Officer

By: James C. Pedri, Assistant Executive Officer

(Date)

DPS/klc: sae



