

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

CEASE AND DESIST ORDER NO. R5-2005-0088

FOR  
CITY OF VACAVILLE  
GIBSON CANYON CREEK WASTEWATER TREATMENT PLANT  
SOLANO COUNTY

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

1. On 30 January 2004, the Regional Board adopted revised Waste Discharge Requirements (WDRs) Order No. R5-2004-0021 prescribing requirements for the Gibson Canyon Creek Wastewater Treatment Plant (hereafter plant or Gibson plant) which is owned and operated by the City of Vacaville (hereafter Discharger).
2. The Discharger owns and operates a wastewater collection and treatment system at the Gibson plant and currently provides service to Mariani Packing Company (hereafter Mariani) and Albertsons Distribution Center (hereafter Albertsons). The Gibson plant is located at 7050 Leisure Town Road in Vacaville, Solano County in Section 36, T7N, R1W, MDB&M.
3. The Gibson plant was built in 1965 to treat tomato processing wastewater from International Home Foods, Inc. (IHF). The treated wastewater was discharged to Gibson Canyon Creek, which runs through the Gibson plant property. Wastewater flows from a grocery distribution center (currently owned by Albertsons) were added later. Prior to the adoption of WDRs Order No. R5-2004-0021, the Gibson plant was regulated under an NPDES permit. The IHF facility stopped operating in December 1998 and was sold to Mariani who began discharging dried-fruit processing wastewater to the Gibson plant in March 2001. Because of the reduced overall flow rate compared to the period when IHF was operating, the treated wastewater at the Gibson plant has since been contained in existing onsite stabilization ponds without discharge to Gibson Canyon Creek. These unlined ponds allow the treated wastewater to evaporate and to percolate to underlying groundwater.
4. The treatment process at the Gibson plant reduces biochemical oxygen demand of the incoming wastewater, but does not reduce its salinity. Since the elimination of discharge from the stabilization ponds to the creek, the salinity of the wastewater in the ponds has also increased due to the effects of evapoconcentration. The current and historical discharges to the ponds have resulted in an increase in the salinity of underlying groundwater in onsite monitoring wells above both background concentrations and the applicable Water Quality Objectives, causing groundwater pollution. Further information regarding the treatment plant, wastewater characteristics and groundwater quality is found in the Findings and Information Sheet of WDRs Order No. R5-2004-0021.
5. On 7 November 2003, Regional Board staff issued tentative revised WDRs for public review. Due to the groundwater impacts, the tentative WDRs provided a time schedule with options for the Discharger to comply with the Basin Plan and the applicable regulations. These options included

additional treatment of the wastewater, the installation of liner systems, or to cease discharge and close the plant.

6. During the public comment period, the Discharger submitted a letter stating that it intended to close the Gibson plant. The letter stated that the domestic flows from Albertsons and Mariani would be routed to the City of Vacaville's Easterly Wastewater Treatment Plant (Easterly plant) by December 2005. The letter also stated that Mariani anticipated ceasing discharge of dried-fruit processing wastewater to the Gibson plant by December 2004 pending adoption of WDRs and a Solano County Use Permit for discharge of the food processing wastewater to land. Therefore, pursuant to the Discharger's request, the current WDRs require closure of the Gibson plant by December 2006 in accordance with the time schedule proposed by the Discharger.
7. The time schedule required in WDRs Order No. R5-2004-0021 is given in Provision No. 4, as follows:
  4. *The Discharger shall complete the following activities and submit the following technical reports by the required dates:*
    - a. *By **15 March 2004**, submit a technical memorandum that provides information on actions that have been taken and will be taken to reduce the salinity of incoming wastewater to the Gibson plant, including but not limited to reductions in the concentrations of EC, ammonia, sulfate and phosphorous.*
    - b. *By **15 March 2004**, submit a site investigation work plan to characterize salt levels in the stabilization pond bottoms and underlying native soils; to determine unimpacted upgradient groundwater quality; to conduct additional groundwater investigation to characterize the horizontal and vertical extent of onsite impacts to groundwater; and to conduct a pumping test to obtain estimates of aquifer characteristics, well yield, and capture zone.*
    - c. *By **17 May 2004**, submit a technical report documenting the completion of the measures taken to reduce the salinity of incoming wastewater to the Gibson plant, including but not limited to reductions in the concentrations of EC, ammonia, sulfate and phosphorous.*
    - d. *By **7 February 2005**, submit an Engineering Feasibility Study (EFS) that assesses the feasibility and effectiveness of various remedial options to return impacted groundwater for all elevated constituents to background levels. The EFS shall include groundwater extraction options developed from data collected during the additional groundwater investigation and pumping test with cost estimates for partial, incremental and complete cleanup.*
    - e. *By **7 February 2005**, submit a Preliminary Closure Plan that assesses options for closure of the ponds. This plan may be included as part of the EFS.*
    - f. *By **1 July 2005**, submit a Corrective Action Plan (CAP) that provides an implementation plan for the best remedy selected from the EFS and the Preliminary Closure Plan.*

- g. By **28 November 2005**, submit a Final Closure Plan to complete clean closure of the stabilization ponds, aeration basins, and related infrastructure. The final closure plan shall include an interpretation of data collected from samples of the stabilization pond bottoms and underlying native soils in order to determine what waste and impacted soil removal actions will be necessary for effective clean closure. If clean closure of one or more ponds or basins is determined to be infeasible, the Discharger shall submit an amended RWD by this date to obtain Regional Board approval for closure as a landfill pursuant to Title 27.*
- h. By **1 December 2006**, submit a technical report documenting the completion of actions necessary to implement the Corrective Action Plan and documenting the completion of clean closure of the ponds in accordance with the Final Closure Plan. If closure of one or more ponds or basins as a landfill is necessary, the technical report required by this Provision (4.h) will also be required under a revision of these WDRs that provide Regional Board approval of the requirements for closure of the pond(s) or basin(s) as a landfill.*

The Discharger has complied with Provisions 4.a through 4.e of the required time schedule.

- 8. In a 13 January 2005 letter, the Discharger requested a revision of the WDRs to extend the time schedule for plant closure. The extension request was made to allow Mariani additional time to pursue an option that would allow discharge of its process wastewater to the Easterly plant in lieu of land discharge. The letter stated that the original proposal to land apply food processing wastewater is now infeasible due to regulatory and technical complications and that additional time is necessary for permitting, design and construction of sewer utility service from Mariani to the Easterly plant. The letter also stated that Mariani needs additional time to design and construct a pretreatment system for the boiler water portion of their discharge. This request will affect the timing of compliance with Provision Nos. 4.g and 4.h of the WDRs.
- 9. Following a 15 March 2005 meeting with Regional Board staff, the Discharger submitted a 27 April 2005 letter requesting an extension in the time schedule for the portion of the Corrective Action Plan (CAP) having to do with the closure of the plant and the ponds. The CAP is to be submitted by 1 July 2005 under Provision No. 4.f of the WDRs. The Discharger has stated that they will submit the CAP as required and as related to groundwater remediation corrective actions. The extension for the closure portion of the CAP is necessary to allow the Discharger time to complete soil sampling within the North Pond and assess whether the soil beneath the pond is a threat to water quality. This information is needed prior to finalizing the portion of the CAP that is related to closure of the ponds.
- 10. The schedule proposed by the Discharger in its 13 January 2005 and 27 April 2005 letters is as follows:
  - a. Submit the portion of the CAP that provides an implementation plan for the best groundwater remediation remedy selected from the Engineering Feasibility Study (EFS) by 1 July 2005.

- b. Submit the portion of the CAP that is related to closure of the plant and the ponds by 30 November 2005.
  - c. Complete design of sewer collection system and Mariani pretreatment by December 2005.
  - d. Complete construction of sewer collection system and Mariani pretreatment by December 2006.
  - e. Discontinue discharge from Mariani and Albertsons to Gibson plant by December 2006.
  - f. Submit Final Closure Plan as required by Provision No. 4.g of the WDRs by 30 November 2007.
  - g. Submit technical report documenting completion of closure as required by Provision No. 4.h of the WDRs by 1 December 2008.
11. The proposed schedule extends compliance due dates that are related to closure of the plant. The schedule required in the WDRs for groundwater remediation remains unchanged. This Order requires the Discharger to submit a technical report by 30 June 2006 demonstrating that the groundwater remediation system has been completed, including an initial assessment of system performance.
12. The Regional Board's Water Quality Control Plan for the Sacramento and San Joaquin River Basins (Basin Plan) designates beneficial uses, includes water quality objectives to protect the beneficial uses, and includes plans to implement the water quality objectives.
13. Surface water drainage from the facility is to Gibson Canyon Creek, thence to McCune Creek and then to Cache Slough (the Delta). The beneficial uses of the Sacramento-San Joaquin Delta, as stated in the Basin Plan, are municipal and domestic supply; agricultural supply; industrial service supply; water contact recreation; noncontact water recreation; warm freshwater habitat, cold freshwater habitat; migration, spawning, reproduction, and/or early development; wildlife habitat; and navigation.
14. The beneficial uses of the underlying groundwater are municipal and domestic water supply, agricultural supply, industrial service supply, and industrial process supply.

#### **REGULATORY CONSIDERATIONS**

15. 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.”*

16. As a result of the events and activities described in this Order, the Regional Board finds that the Discharger has caused or permitted waste to be discharged in such a manner that it has created, and continues to threaten to create, a condition of pollution or nuisance. The Regional Board also finds that the Discharger has discharged, and has the potential to discharge, waste in violation of WDRs No. R5-2004-0021.
17. California Water Code Section 13267(b) 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.”*
18. The technical reports required by this Order are necessary to assure compliance with WDR Order No. R5-2004-0021 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.
19. The issuance of this Order is exempt from the provisions of the California Environmental Quality Act (CEQA), Public Resource Code §21000, et seq., in accordance with Title 14, CCR, §15321(a)(2).
20. On 24 June 2005, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Regional Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order.
21. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board to review the action in accordance with Sections 2050 through 2068, Title 23, California Code of Regulations. The petition must be received by the State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812, within 30 days of the date on which the Regional Board action took place. Copies of the laws and regulations applicable to the filing of a petition are available on the Internet at [http://www.swrcb.ca.gov/water\\_laws/index.html](http://www.swrcb.ca.gov/water_laws/index.html) and also will be provided on request.

**IT IS HEREBY ORDERED** that pursuant to Sections 13301 and 13267 of the California Water Code, the City of Vacaville, its agents, successors and assigns, in order to comply with WDRs Order No. R5-2004-0021, shall comply with the following modified time schedule:

Any person signing a document submitted under this Order shall make the following certification:

*“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and*

*on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”*

1. By **1 July 2005**, submit the portion of the Corrective Action Plan that provides an implementation plan for the groundwater remediation remedy contained in the approved EFS.
2. By **30 November 2005**, submit the portion of the Corrective Action Plan that is related to closure of the plant and the ponds.
3. By **31 December 2005**, submit a technical report demonstrating the design of the sewer collection system for routing of all Mariani and Albertsons discharges to the Easterly plant has been completed. The technical report shall also provide the status of the design for the Mariani pretreatment system.
4. By **30 June 2006**, submit a technical report demonstrating that the construction of the groundwater remediation system for routing extracted groundwater discharges to the Easterly plant has been completed, including an initial assessment of system performance.
5. By **31 December 2006**, submit a technical report demonstrating that the construction of the sewer collection system for routing of all Mariani and Albertsons discharges to the Easterly plant has been completed and that all discharges to the Gibson plant have ceased.
6. By **30 November 2007**, submit a Final Closure Plan to complete clean closure of the stabilization ponds, aeration basins, and related infrastructure. The final closure plan shall include an interpretation of data collected from samples of the stabilization pond bottoms and underlying native soils in order to determine what waste and impacted soil removal actions will be necessary for effective clean closure. If clean closure of one or more ponds or basins is determined to be infeasible, the Discharger shall submit an amended RWD by this date to obtain Regional Board approval for closure as a landfill pursuant to Title 27.
7. By **31 December 2008**, submit a technical report documenting the completion of actions necessary to implement the Corrective Action Plan and documenting the completion of clean closure of the ponds in accordance with the Final Closure Plan. If closure of one or more ponds or basins as a landfill is necessary, the technical report required by Provision 4.h of the WDRs will also be required under a revision of the WDRs that provide Regional Board approval of the requirements for closure of the pond(s) or basin(s) as a landfill.

**Beginning 1 August 2005**, and by the first day of the second month following each calendar quarter (i.e., by **1 February, 1 May, 1 August, and 1 November each year**), the Discharger shall submit a progress report describing the work completed to date regarding each of the reporting requirements described above.

In accordance with California Business and Professions Code Sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All

technical reports specified herein that contain workplans for, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain a statement of qualifications of the responsible licensed professional(s) as well as the professional's signature and/or stamp of the seal.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

Failure to comply with this Order may result in the assessment of an Administrative Civil Liability up to \$1,000 or up to \$10,000 per day of violation, depending on the violation, pursuant to the California Water Code, including sections 13268, 13350, and 13385. The Regional Board reserves its right to take any enforcement actions authorized by law.

I, THOMAS R. PINKOS, 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 24 June 2005.

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THOMAS R. PINKOS, Executive Officer

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