

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ACL COMPLAINT NO. R5-2005-0527

ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF

AMADOR WATER AGENCY
AMADOR COUNTY SERVICE AREA NO. 3
LAKE CAMANCHE VILLAGE WASTEWATER TREATMENT PLANT
AMADOR COUNTY

This Administrative Civil Liability Complaint (hereafter Complaint) is issued to the Amador Water Agency (hereafter known as "Discharger") based on failure to comply with Waste Discharge Requirements Order No. 5-01-033, Cease and Desist Order No. 5-01-034, Cease and Desist Order No. R5-2003-0126, and California Water Code (CWC) Section 13385. This Complaint is issued pursuant to CWC Section 13385, which authorizes the imposition of administrative civil liability.

The Executive Officer of the Central Valley Regional Water Quality Control Board (Regional Board) finds, with respect to the Discharger's acts, or failure to act, the following:

1. Waste Discharge Requirements (WDRs) Order No. 5-01-033, adopted by the Regional Board on 26 January 2001, prescribes requirements for Amador County Service Area No. 3, Lake Camanche Village wastewater treatment plant (WWTP). The facility is owned and operated by the Discharger.
2. The WWTP collects, treats, and disposes of domestic wastewater from approximately 243 residential units within Lake Camanche Village. As of 2001, Lake Camanche Village was approaching 60% of complete build out of the 395 parcels available. The wastewater treatment facility provides secondary treatment with disinfection, followed by effluent disposal to a sprayfield.
3. The treatment plant consists of a 7 acre-foot aerated facultative pond, two 0.08 acre-foot settling basins, chlorination facilities (including a 240 foot long concrete lined chlorine contact chamber), a 19.5 acre-foot unlined storage pond, and a 12-acre effluent sprayfield.
4. Self monitoring reports submitted for the period from April 2002 to June 2005 indicate that monthly average flows range from approximately 41,000 to 90,000 gallons per day (gpd). The WDRs do not contain a flow limitation as the WWTP did not contain an accurate flow meter at the time the updated WDRs were adopted in 2001.

History of Enforcement Actions

5. The wastewater treatment portion of the WWTP was originally designed for complete build out of the Lake Camanche service area with a design flow capacity of approximately 281,000 gpd. However, the sprayfield and storage pond were not sized for full build out. As part of the September 2000 Report of Waste Discharge, the Discharger submitted a water balance that indicated that the storage pond does not have enough capacity to contain current flows, including

seasonal precipitation using a 100 year return period. The water balance did not include capacity calculations for increased flows due to growth.

6. Because the Discharger could not immediately comply with WDRs Order No. 5-01-033, on 26 January 2001 the Regional Board also adopted Cease and Desist (C&D) Order No. 5-01-034.
7. C&D Order No. 5-01-034 required the Discharger to (a) immediately prevent discharges of waste into surface water and surface water drainage courses, (b) immediately prevent tailwater runoff from the spray disposal areas, and (c) cease irrigation of the spray disposal fields 24 hours prior to, during, and 24 hours after periods of precipitation, or when the ground is saturated.
8. The C&D also required the Discharger to be in full compliance with various Discharge Specifications, including treatment and storage pond freeboard requirements (two feet of freeboard), and wastewater treatment, storage, and disposal design requirements (i.e., 100 year annual rainfall return requirements).
9. In addition to the items described above, the C&D required the Discharger to submit a number of reports detailing facility improvements. The Discharger submitted the majority of the technical reports and some of the quarterly progress reports, and has made certain improvements to the wastewater treatment plant and collection system. These include: submittal of a Spill Contingency Plan; submittal of a Long Term Wastewater Management Plan; identifying areas of I&I and making improvements to the collection system; installing automated call out devices at each lift station to alert WWTP staff of potential problems with the lift stations to prevent overflows; purchasing portable emergency generators that can be mobilized in case of power outages; constructing bypass piping and valves at each lift station to avoid spills in case of pump failure at a lift station; and purchase and operation of a "Turbo Mister" to provide an additional means of disposing of wastewater via evaporation.
10. The Discharger failed to submit several reports and make some improvements to the WWTP as required by the WDRs and C&D Order No. 5-01-034. These include: submittal of a groundwater monitoring well workplan and installation report, final upgrades to Lift Station C to prevent overflows, installation of bypass pumps and piping in each lift station, and construction of additional wastewater storage and disposal areas.
11. In a meeting with staff on 12 December 2002, and in a follow-up letter dated 31 January 2003, the Discharger indicated that it did not want to make any large capital improvements to the existing WWTP, since it had entered into an agreement with the East Bay Municipal Utility District to investigate the feasibility of regionalizing the wastewater systems within the Lake Camanche Area.
12. Because the Discharger had significantly changed its approach toward upgrading the Lake Camanche Village treatment plant, on 5 September 2003, the Regional Board rescinded C&D Order No. 5-01-033 and adopted C&D Order No. R5-2003-0126.

**FAILURE TO COMPLY WITH THE
CEASE AND DESIST ORDER AND WASTE DISCHARGE REQUIREMENTS**

13. C&D Order No. R5-2003-0126 requires the Discharger to comply with, among others, Discharge Prohibition A.1 of the WDRs. The C&D also requires the Discharger to submit a number of reports, including a Contingency Plan, a Lift Station Improvement Report, an I&I Reduction Study and Improvement Report, a Surface Water Investigation Report, a Feasibility Study, and a Preferred Alternative Report and quarterly progress reports. The Discharger has submitted all of the reports required by the C&D.
14. Discharge Prohibition A.1 of WDRs Order No. 5-01-033 states: *“Discharge of waste to surface water or surface water drainage course is prohibited.”*
15. Since February 2003, there have been three documented spills at the WWTP that have entered surface water drainage courses or surface waters, in violation of the WDRs and C&D.
16. On 26 March 2003, staff issued a notice of violation (NOV) to the Discharger for the spill of approximately 9,000 gallons of wastewater into a surface drainage course that flows to Lake Camanche. The spill occurred when a hose connection at a wastewater pump station failed. The pump station’s automatic shut down device did not activate because it was set too low. The spill did not enter the lake.
17. On 3 May 2005, an NOV was issued to the Discharger for freeboard violations and for a spill that occurred between 28 and 30 March 2005. The Discharger failed to maintain two feet of freeboard within its storage pond from 4 February 2005 to the date of issuance of the NOV (and beyond). According to the Discharger’s spill report, approximately 900,000 gallons of wastewater was released in a controlled manner from the WWTP effluent storage pond when it was determined that gopher holes were present in the pond berm. The Discharger decided to release wastewater to prevent a catastrophic failure of the pond berm. The wastewater was discharged to a flowing surface water course leading to Lake Camanche. It is expected that the spill entered Lake Camanche because the surface watercourse was flowing at the time of the release and there are no downstream diversions.
 - a. On 7 June 2005, the Discharger submitted a report describing the steps that had been taken to maintain two feet of freeboard in the effluent storage pond. Actions taken prior to the March 2005 spill included: making repairs to the collection system to reduce I&I; hauling wastewater offsite for disposal; notifying customers within the wastewater service area to conserve water; and use of evaporative disposal systems such as a turbo mister and spritzer barges. The Discharger also evaluated the feasibility of raising the effluent storage pond dam height. However, complications resulting from the Division of Dam Safety requirements prevented the Discharger from pursuing this alternative.
 - b. The 7 June 2005 report also provides information as to the improvements and measures that will be made to ensure that future freeboard levels are greater than two feet. These include: continuing to make improvements to the collection system to reduce I&I, increasing storage

capacity in the effluent storage pond by removing sediment/sludge and deepening the pond via excavation, replacing existing spray heads in the sprayfield with fogger nozzles to enhance evaporation, and adding additional misters to the effluent storage pond. In addition, in July 2005 the Amador Water Agency's Board of Directors adopted a resolution that imposed a sewer connection moratorium for the Lake Camanche wastewater service area until wastewater storage and disposal capacity at the WWTP is increased.

18. On 5 August 2005, the Discharger submitted a spill report for a spill that occurred on 27 July 2005. According to the report, approximately 800 to 1,000 gallons of disinfected treated wastewater was discharged into a surface water drainage ditch when an irrigation pipe broke in the sprayfields, and the tailwater return pumps failed to capture and return all effluent back to the treatment plant. The wastewater released into the drainage course soaked into the ground and did not enter Lake Camanche.

REGULATORY CONSIDERATIONS

19. As described in the above Findings, the Discharger has violated WDRs Order No. 5-01-033, C&D Order No. 5-01-034, and C&D Order No. R5-2003-0126 by discharging wastes and effluent to surface waters or surface water drainage courses and by the bypass of untreated or partially treated effluent.
20. Section 301 of the Clean Water Act and Section 13376 of the CWC prohibit the discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit.
21. CWC Section 13376 states, in part: *“Any person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States ... shall file a report of the discharge in compliance with the procedures set forth in Section 13260...”* and *“The discharge of pollutants...except as authorized by waste discharge requirements [NPDES permit] ...is prohibited.”*
22. The Discharger, by failing to file a report of waste discharge as set forth in CWC section 13260 and failing to obtain an NPDES permit prior to the discharges described in the above Findings, has violated CWC section 13376. WDRs Order No. 5-01-033 is not an NPDES permit.
23. CWC Section 13385 states, in part:
“(a) Any person who violates any of the following shall be liable civilly in accordance with subdivisions (b), (c), (d), (e), and (f):

(1) Section 13375 or 13376.

“(c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both the following:

(1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.

(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.”

24. For discharging waste in violation of the WDRs and the C&Ds, the Regional Board may assess administrative civil liability based on CWC section 13385. The maximum administrative civil liability which can be imposed by the Regional Board under CWC Section 13385 is \$10,000 per day of discharge plus \$10 per gallon discharged in excess of 1,000 gallons. As stated in the Findings, approximately 910,000 gallons of wastewater were discharged into surface waters over a period of five days. Of this, a total of 907,000 gallons were discharged in excess of 1,000 gallons per spill event. Therefore, the maximum administrative civil liability is \$50,000 (five days times \$10,000 per day) plus \$9,070,000 (910,000 gallons minus 1,000 gallons per spill event times \$10 per gallon), for a total maximum liability of \$9,120,000.
25. CWC Section 13385(e) states:
“In determining the amount of any liability imposed under this section, the regional board, the state board, or the superior court, as the case may be, shall take into account the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.”
26. Pursuant to CWC Section 13385(e), the minimum administrative civil liability is equivalent to the economic benefit accrued by the Discharger in not implementing the management and/or physical improvements necessary to prevent the discharges. The 900,000 gallon spill, in part, was due to the freeboard levels in the storage pond being less than two feet, and the presence of gopher holes in the berm. While the Discharger did implement its Contingency Plan to maintain two feet of freeboard in the storage ponds, the Discharger neither fully implemented the plan nor did enough to prevent the spill, as monitoring reports show that freeboard levels remained above two feet daily from 4 February to the date of the spill. It is estimated that the Discharger has saved at least \$67,500 by not pumping and hauling a sufficient volume of wastewater for off-site disposal. Therefore, the minimum liability for the March 2005 spill is at least \$67,500. Staff have not estimated the economic benefit for the other violations listed in this Order.
27. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et. seq.), in accordance with Section 15321 (a)(2), Title 14, of the California Code of Regulations.

THE AMADOR WATER AGENCY IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed Administrative Civil Liability in the amount of one hundred thousand dollars (\$100,000). The amount of the liability proposed is based upon a review of the factors set forth in CWC Section 13385 cited in Finding No. 25 above, and includes consideration of the economic benefit or savings resulting from the violations.
2. A hearing shall be held on **26/27 January 2006** unless the Discharger agrees to waive the hearing and pay the imposed civil liability in full.
3. If a hearing is held, the Regional Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. In lieu of a hearing, the Discharger may waive the right to a hearing. If you wish to waive the right to a hearing, sign the enclosed waiver and return it with the full amount of civil liability (in a check made payable to the *State Water Resources Control Board Cleanup and Abatement Account*), to the Regional Board's office at 11020 Sun Center Drive, Suite #200, Rancho Cordova, CA 95670, by **9 December 2005**.

Original Signed by
THOMAS R. PINKOS, Executive Officer

31 October 2005
(Date)

**WAIVER OF HEARING FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent the Amador Water Agency (hereinafter “Discharger”) in connection with Administrative Civil Liability Complaint No. R5-2005-0527 (hereinafter the “Complaint”);
2. I am informed of the right provided by Water Code section 13323, subdivision (b), to a hearing within ninety (90) days of issuance of the Complaint;
3. I hereby waive the Discharger’s right to a hearing before the California Regional Water Quality Control Board, Central Valley Region, within ninety (90) days of the date of issuance of the Complaint; and
4. Without admitting liability for the matters alleged in the Complaint, I otherwise agree to remit payment for the civil liability imposed in the amount of one hundred thousand dollars (\$100,000) by check, which contains a reference to “ACL Complaint No. R5-2005-0527” and is made payable to the “*State Water Resources Control Board Cleanup and Abatement Account.*”
5. I understand the payment of the above amount constitutes a settlement of the Complaint that will not become final until after a public comment period.
6. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

(Name)

(Title)

(Date)