

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER R5-2019-0701
FOR

CITY OF IONE

AMADOR COUNTY

This Order is issued to the City of Ione (hereafter known as “Discharger”) based on provisions of California Water Code¹ section 13304 which authorizes the Regional Water Quality Control Board, Central Valley Region (hereafter known as Central Valley Water Board) to issue a Cleanup and Abatement Order (CAO).

The Executive Officer of the Central Valley Water Board finds, with respect to the Discharger’s acts, or failure to act, the following:

1. Waste Discharge Requirements (WDRs) Order R5-2013-0022-001 was adopted by the Central Valley Water Board on 11 April 2013 for the City of Ione Waste Water Treatment Facility (WWTF). Greenrock Ranch Lands, LLC is named in the WDRs but is not part of this enforcement action. The WDRs address the storage, treatment, and disposal of domestic wastewater and associated wastewater treatment plant sludge (biosolids).
2. The WWTF accepts and treats domestic wastewater from the City of Ione, filter backwash water from a water treatment plant operated by Amador Water Agency, and filter backwash water from Castle Oaks Water Reclamation Plant. In addition, the Discharger accepts secondary effluent from Mule Creek State Prison and the Amador Regional Sanitation Authority via Preston Reservoir for disposal in the Facility’s percolation/evaporation ponds.
3. The Facility consists of seven ponds covering a total of approximately 28 acres. The first four ponds provide secondary treatment via aeration and settling, and the remaining three ponds provide disposal of treated effluent via percolation and evaporation.
4. In completing work to line ponds 1-4 in accordance with the 2013 Cease and Desist Order (CDO) R5-2013-0023, excavated sludge from the ponds was temporarily stored in other ponds, and eventually stockpiled on site.
5. Sludge was excavated from the ponds and stockpiled on site in January 2018. The sludge has not been hauled off site as of the date of this order. This is a violation of Solids Disposal Specification H.2 of the WDRs, which requires the onsite storage of sludge to be limited to 6 months.
6. This Order has been prepared to address the removal of stockpiled biosolids, which were previously removed from the treatment ponds during the pond lining project, and any impacts to underlying material. It will not address compliance with the 2013 CDO. This Order is necessary because the Discharger has not hauled biosolids to a permitted disposal

¹ All references are to the California Water Code unless otherwise noted.

facility within the time limits set by the WDRs. Consequently, the ongoing violation of long term stockpiling of biosolids threatens to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and create, or threaten to create, a condition of pollution or nuisance.

ENFORCEMENT HISTORY

7. In 2003, the Central Valley Water Board issued CDO R5-2003-0108 (the "2003 CDO"), which was intended to bring the facility into compliance with the WDRs. The 2003 CDO documented three compliance issues: groundwater pollution due to the disposal of wastewater, seepage of wastewater into Sutter Creek, and the construction and use of an unpermitted effluent disposal pond. Because the City did not comply with the 2003 CDO, the Central Valley Water Board issued CDO R5-2011-0019 (the "2011 CDO"), documenting the following ongoing compliance issues: groundwater pollution with iron and manganese; seepage of polluted groundwater into Sutter Creek; inadequate capacity for the permitted flow limits; and the construction and use of two unpermitted effluent disposal ponds (Ponds 6 and 7).
8. The 2011 CDO required that the City construct facility improvements that will limit the mobilization and discharge of iron and manganese. In addition, the CDO required that the Discharger either:
 - a. Stop any indirect discharge (seepage) of degraded groundwater to Sutter Creek that is in violation of the Clean Water Act; or
 - b. Obtain a National Pollutant Discharge Elimination System (NPDES) Permit to regulate the indirect discharge of degraded groundwater to Sutter Creek.

The City elected to modify the WWTF in a manner that would not require an NPDES permit, choosing to line the ponds in order to eliminate any seepage from entering the creek. Because the City's proposals did not meet the timeline set forth in the 2011 CDO, a new CDO, R5-2013-0023, was adopted to allow the City additional time to come into compliance.

9. After reviewing their options the Discharger proposed, in part, to line Ponds 1, 2, 3, and 4 with geosynthetic liners in order to prevent further impacts to groundwater quality. The 2013 CDO also required the lining of Ponds 5, 6, and 7 if groundwater quality did not meet benchmarks set in the 2013 CDO.
10. In response to the 2013 CDO, on 27 August 2014 the Discharger informed the Regional Board that they intended to line Pond 5. Later on 27 January 2017 the Discharger informed the Regional Board that they intended to begin to line Ponds 1, 2, 3, and 4.

POND LINING ACTIVITIES AND BIOSOLIDS REMOVAL

11. Before the soil beneath a pond can be prepared for the installation of a liner, the pond must be emptied and all sludge removed. Once removed, the sludge must be dried, sampled,

and then off hauled to a permitted disposal facility. The Discharger has dried the sludge to some extent, and collected samples.

12. On 17 March 2017 the Discharger submitted a *Draft Technical Specification* document which included the design for geosynthetic liner in Ponds 1, 2, 3, and 4. This document did not include a description of how biosolids would be removed, stored, or disposed.
13. On 29 August 2017 the Discharger issued a letter stating, that the amount of biosolids in Ponds 2 and 3 were nearly double what they had anticipated. The letter also states that the original plan was to temporarily transfer biosolids from Ponds 1, 2, 3, and 4 into Pond 5. Then after liners are installed in Ponds 1-4, biosolids would be pumped back from Pond 5 into Ponds 1-4.
14. Biosolids removal and liner construction for Ponds 2 and 3 occurred between August and December 2017. Biosolids were removed from Ponds 2 and 3 and placed into Pond 4.
15. On 18 January 2018 the Discharger submitted a letter informing the Regional Board of their intention to remove biosolids from primary treatment Ponds 1-4. The letter stated:

“The City would like to de-water Ponds 1 and 4 and allow the sludge in the ponds to dry out enough to remove it and temporarily stockpile the sludge/biosolids on a protective membrane on city-owned property just south of the City Field at the WWTP. Once placed on the protective membrane, the sludge will be covered. Additionally, a ditch will be installed adjacent to the stockpile to collect any seepage from the sludge. Any runoff from the ditch will be collected in a temporary sump and pump into the sewer collection system at the WWTP and pumped to the head works of the WWTP for processing through the plant.”

“It is the City's intent to stockpile the biosolids for not more than 6 months in accordance with Section H (2) of the City's Waste Discharge Requirements Order R5-2013-0022. Once the biosolids have sufficiently dried, it is the City's intent to hire a contractor for removal and disposal of the biosolids in accordance with all regulatory/code and permitting requirements. Similar to a prior biosolids removal project, the City's intent is to require the contractor to be responsible for securing a permitted disposal site.”

The letter also stated that the Discharger anticipated removing sludge from Pond 4 and stockpiling it outside the ponds within one week following the issuance of the 18 January 2018 letter.

16. The October through December 2017 monitoring reports state that sludge was being stored in Pond 5, and indicate that the sludge was the cause of noted Biological Oxygen Demand (BOD) effluent limit violations. In January 2018 effluent samples began to be collected from Pond 4 instead of Pond 5, indicating that Pond 5 was temporarily bypassed to allow the biosolids to dry out and be removed. After January the Discharger reverted to collecting effluent samples from Pond 5 and BOD violations ceased, indicating that the sludge was no longer stored in that pond. No monitoring reports after January 2018 mentioned the

biosolids or have BOD violations. Based on the monitoring reports, Board staff believe the biosolids were removed from Pond 5 and stockpiled onsite sometime during January 2018.

17. Even though the Discharger submitted the letter outlining the requirements of the WDRs on 18 January 2018, they did not issue bid documents for public bidding for the removal and disposal of the stockpiled biosolids until 11 December 2018. The Discharger began accepting contractor bids on 15 January 2019.

COMPLAINTS AND REGIONAL BOARD RESPONSE

18. Regional Board staff began receiving complaints in June 2018 regarding the uncovered sludge stockpile, including photos and drone footage. Local residents reported that odors were occurring nearly every day and that on some days it could be smelled in the downtown lone area approximately 1.5 miles away. Board staff received photos dated 22 October 2018 showing that the pile was not covered. The Discharger was informed of these complaints via phone as they came in, and asked to cover and maintain the biosolids pile until removal.
19. On 16 July 2018 Board staff performed a drive by inspection of the facility and confirmed that the biosolids pile was uncovered and had odors perceivable past the property line.
20. On 16 January 2019 Board staff performed a compliance inspection of the Discharger's facility and confirmed that the sludge material had not been removed from the site. During the inspection the City Manager, Jon Hanken, stated that they would be awarding the contract to remove the biosolids within the next few weeks. The City Manager confirmed that a protective membrane or any other containment material had not been placed beneath the biosolids, even though the City's 18 January 2018 letter stated that the stockpile would be lined with a protective liner. The pile was covered with sheets of plastic, but rain was contacting the pile between the sheets and where the plastic had been blown apart by wind. The pile was estimated to be 100 feet across, 350 feet long, and 10 feet high. It is unknown if the pile was placed on flat ground or in a depression. The City Manager estimated the biosolids pile was around 12,000 cubic yards. He stated that he thought it had been 10 years or more since sludge had been removed from some of the treatment ponds. Swales had been dug around the pile to collect contact stormwater. The City manager stated that contact stormwater was being collected in a low area and pumped with a portable pump to a nearby sewer manhole when needed. There was a significant amount of contact stormwater around the pile during the inspection. Swales were preventing contact stormwater from entering a wetland drainage to the south of the pile. Board staff informed the City Manager that there were several violations of the WDRs associated with the manner and length of time that the biosolids were being stored, and requested the Discharger submit a letter detailing the plan and schedule for removal.
21. On 25 January 2019 the Discharger submitted a letter in response to Board staff's 16 January 2019 request, stating:
 - a. The Discharger intends to award the contract for removal and disposal of the biosolids to Synagro on 5 February 2019.

- b. There was no protective membrane placed under the biosolids.
 - c. The Discharger plans to begin removal of the biosolids the week of 15 April 2019, the earliest date that Synagro can land apply the biosolids due to requirements of Synagro's WDRs.
 - d. Removal of the biosolids is anticipated to take 3 to 4 weeks.
 - e. Within 30 days of the completion of the biosolids removal project, the Discharger shall submit a letter to the Regional Board verifying the offsite disposal destination and volume.
22. On 28 January 2019 Board Staff responded to the Discharger's 25 January 2019 letter, stating that "*Board staff cannot approve a plan that does return your facility to compliance within a reasonable timeframe when there are other nearby facilities that can accept the material without weather limitations*". Board staff reiterated that they have received numerous complaints regarding the biosolids pile, and that the continuing rains would only make the situation worse. Board staff also stated that, because no protective membrane was placed under the biosolids, the 18 January 2018 biosolids removal letter needs to be revised to include (a) over excavation of the underlying material and (b) collection of confirmation samples to confirm all the biosolids have been removed.
23. The City Manager contacted Board staff and requested that the start date for biosolids removal of 15 April 2019 remain unchanged, but requested an additional 30 days for the confirmation sampling and over excavation, if needed. He stated that the removal, any over excavation, and confirmation sampling would be completed no later than 17 June 2019.
24. On 13 February 2019 Board staff sent an email to the City Manager rescinding the 14 February 2019 deadline for a revised plan set by Board staff's 25 January 2019 email. In addition, the email informed the Discharger that the Regional Board staff would be preparing this Cleanup and Abatement Order (CAO) memorializing the City's timeline for removal of the biosolids stockpile (as stated in Finding 23 of this Order).

VIOLATIONS OF THE WDRS

25. Prohibition A.6 of the WDRs states: "*Discharge of waste at a location or in a manner different from that described in the Findings is prohibited.*"
26. Discharge Specification E.2 states: "*Wastewater treatment, storage, and disposal shall not cause pollution or a nuisance as defined by Water Code section 13050.*" See findings 37 and 38 of this Order.
27. Discharge Specification E.3 states: "*The discharge shall remain within the permitted waste treatment/containment structures and land application areas at all times.*"
28. Discharge Specification E.7 states: "*Objectionable odors shall not be perceivable beyond the limits of the WWTF property at an intensity that creates or threatens to create nuisance conditions.*"

29. Discharge Specification E.15 states: *“The City shall monitor sludge accumulation in Ponds 1 through 4 at least every five years beginning in 2016, and shall periodically remove sludge as necessary to maintain adequate storage capacity. Specifically, if the estimated volume of sludge in any pond exceeds five percent of the permitted capacity specified in Finding 7, the City shall complete sludge cleanout for that pond within 12 months after the date of the estimate.”*
30. Solids Disposal Specification H.2 states: *“Any handling and storage of residual sludge, solid waste, and biosolids at the WWTF shall be temporary (i.e., no longer than six months) and controlled and contained in a manner that minimizes leachate formation and precludes infiltration of waste constituents into soils in a mass or concentration that will violate the groundwater limitations of this Order.”*
31. Solids Disposal Specification H.3 states: *“Residual sludge, biosolids, and solid waste shall be disposed of in a manner approved by the Executive Officer and consistent with Title 27, division 2. Removal for further treatment, disposal, or reuse at disposal sites (i.e., landfills, WWTFs, composting sites, soil amendment sites) operated in accordance with valid waste discharge requirements issued by a Regional Water Board will satisfy this specification.”*
32. Solids Disposal Specification H.5 states: *“Use and disposal of biosolids shall comply with the self-implementing federal regulations of 40 Code of Federal Regulations part 503, which are subject to enforcement by the U.S. EPA, not the Central Valley Water Board. If during the life of this Order, the State accepts primacy for implementation of part 503, the Central Valley Water Board may also initiate enforcement where appropriate.”*

REGULATORY CONSIDERATIONS

33. As a result of the events and activities described in this Order, the Central Valley Water Board finds that the Discharger threatens to cause or permit waste to be discharged or deposited 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.
34. The Discharger’s WWTF is located at 1600 West Marlette Street in the City of Ione (Section 26, T6N, R9E, MDB&M. The area includes surface water drainages to Sutter Creek, tributary to Dry Creek, tributary to the Mokelumne River.
35. The Board’s Water Quality Control Plan (Fourth Edition) for the Sacramento River and San Joaquin River Basins (Basin Plan) establishes the beneficial uses of the waters of the state and water quality objectives to protect those uses. The beneficial uses of the Mokelumne River are irrigation and stock watering; contact and noncontact recreation; warm and cold freshwater habitat; warm and cold water migration; warm and cold spawning; wildlife habitat.
36. Water Code section 13304, subdivision (a) states, in relevant part:

Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement 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 or deposited 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 the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.

37. Water Code section 13050, subdivision (l):

(1) "Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:

(A) The waters for beneficial uses.

(B) Facilities which serve these beneficial uses.

(2) "Pollution" may include "contamination."

38. Water Code section 13050, subdivision (m) defines "Nuisance" to mean anything which meets all of the following requirements:

(1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

(2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(3) Occurs during, or as a result of, the treatment or disposal of wastes.

39. Water Code section 13267, subdivision (b) states, in relevant part:

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 ... 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.

40. 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 (Pub. Resources Code, § 21000 et seq.) pursuant to California Code of Regulations, title 14, section 15321, subdivision (a)(2).

41. Solids Disposal Specification H.6 states: “*Any proposed change in sludge use or disposal practice shall be reported in writing to the Executive Officer at least 90 days in advance of the change.*”

IT IS HEREBY ORDERED that, pursuant to Sections 13304 and 13267 of the California Water Code, the City of Ione shall take the necessary remedial actions to prevent the discharge of wastewater to surface water, in accordance with the following schedule.

Compliance with this Order shall include, but not be limited to, the following measures:

1. **Immediately** comply with the WDRs, MRP, and Standard Provisions.
2. **Immediately** cease all nuisance conditions, and prevent precipitation from contacting the biosolids stockpile.
3. **Immediately**, the Discharger shall conduct daily inspections of the biosolids stockpile. Inspections for each week shall be submitted via email to Board staff every Friday. Inspection should include:
 - a. Photos showing the condition of the cover materials and stormwater containment system around the pile.
 - b. A description and schedule for any maintenance necessary to comply with this Order or the WDRs associated with the stockpiled biosolids.
 - c. Confirmation that contact stormwater was not running offsite or into any surface water drainage. If a release to surface water does occur it should be immediately reported to Board staff, documented in the weekly report, and samples of the discharge should be collected. Samples should be analyzed for all constituents listed in the Undisinfected Effluent Monitoring section and the Sludge and/or Biosolids Monitoring section of the Monitoring and Reporting Program (MRP) of the WDRs.
4. For the reporting period spanning the **2nd and 3rd Quarter of 2019**, quarterly groundwater samples collected from wells P-3, P-5B, MW-4, MW-4A, MW-5, MW-5A, MW-6, and MW-7 must be analyzed for all constituents listed in the Groundwater Monitoring and the Sludge and/or Biosolids Monitoring sections of the MRP.
5. By **28 March 2019** the Discharger shall submit a *Confirmation Sampling Plan*, describing:
 - a. A plan to sample contact stormwater around the biosolids pile, the surface water in the wetland directly south of the biosolids stockpile, and the wetland area upstream of the biosolids stockpile area twice, regardless of observed discharge of contact stormwater from the biosolids stockpile area. The first sampling event should take place as soon as possible after the *Confirmation Sampling Plan* is approved by Board staff, and the second should occur after all removal and stabilization activities are completed. Analytes should include all constituents listed in the Undisinfected Effluent Monitoring section and the Sludge and/or Biosolids Monitoring section of the MRP.
 - b. A procedure to sample the soil beneath the biosolids stockpile after removal to determine if underlying soil has been impacted. The sampling plan must also be

used to confirm that all impacted soil has been removed in the event removal is necessary. Background samples collected from nearby, unimpacted locations will also be necessary for comparison. Analytes should include all constituents listed in the Undisinfected Effluent Monitoring section and the Sludge and/or Biosolids Monitoring section of the MRP.

- c. A plan to sample any other surface water that may be threatened by the discharge of contact stormwater from the biosolids.
 - d. A confirmation that the work to remove the biosolids will be completed by the 17 June 2019 deadline, as proposed by the Discharger.
6. No later than **15 April 2019** the Discharger shall begin removal of the biosolids. The Discharger must notify Board staff one week prior to beginning removal activities, regardless of start date.
7. Once removal begins, the Discharger shall submit weekly updates (via email to Board staff) describing the progress of the biosolids removal activities and a determination of if the activities are on schedule to be completed in accordance with the 17 June 2019 deadline. If the work falls behind schedule and does not appear that it will meet the deadline, the update should include additional actions the Discharger intends to take to ensure the 17 June 2019 deadline is met. Weekly updates must include tables of all collected surface water to date, along with any new laboratory reports.
8. By **1 June 2019** the Discharger shall submit a *Biosolids Soil Impacts Assessment and Remediation Results*, which shall include:
 - a. Soil sample results and lab reports for the material underlying the biosolids stockpile.
 - b. A comparison of results from the underlying material and background samples.
 - c. If impacted soil is found:
 - i. A description of any additional excavation and removal needed based on the above described comparison.
 - ii. Where any impacted soil will be hauled to and disposed of. The disposal site must be a facility permitted to accept the waste.
 - iii. A plan to backfill or stabilize the excavated area after impacted soil has been removed. These activities should not be completed prior to Board staff's concurrence, based on confirmation samples, that all impacted soil has been removed.
9. By **17 June 2019** the Discharger shall submit confirmation, including photos and laboratory data, showing that the stockpiled biosolids and all impacted underlying material have been removed from the site. This submittal should include a schedule to complete any activities required by Item 7.c.iii above, pending Board staff approval.
10. By **31 December 2019** the Discharger shall submit a *Biosolids Removal and Groundwater Impacts Assessment Report* which shall include the following items:

- a. A description and photos of all work completed related to backfill or stabilization of the site, if needed.
- b. Load receipts and all laboratory reports for all material that left the site.
- c. A summary of all soil and groundwater data that was required to be collected under this Order including all lab reports.
- d. An analysis of groundwater samples and an assessment if groundwater has been impacted by the biosolids pile. If impacts are detected corrective actions should be proposed.
- e. A summary of all surface water sample data and a determination of if surface waters were impacted by discharges of contact stormwater.

The Discharger shall obtain all local and state permits and access agreements necessary to fulfill the requirements of this Order. The Discharger shall continue any remediation or monitoring activities until such time as the Executive Officer determines that sufficient cleanup has been accomplished to fully comply with this Order and this Order has been rescinded. 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, 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 the professional's signature and/or stamp of the seal.

Each report submitted to the Central Valley Water Board shall be included in the Discharger's Operating Record. Furthermore, 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."

If the Discharger fails to comply with the provisions of this Order, the Central Valley Water Board may refer this matter to the Attorney General for judicial enforcement or the Assistant Executive Officer may issue a complaint for administrative civil liability. Failure to comply with this Order may result in the assessment of administrative civil liability up to \$10,000 per violation per day, pursuant to the Water Code sections 13268, 13350, and/or 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive

the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

This Order is effective upon the date of signature.

Original Signed By

PATRICK PULUPA, Executive Officer

22 March 2019

(Date)