

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2006-0733

FOR
VALLEY SPRINGS PUBLIC UTILITY DISTRICT
WASTEWATER TREATMENT FACILITY
CALAVERAS COUNTY

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

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

1. The Valley Springs Public Utility District (hereafter "Discharger") owns and operates the wastewater treatment plant (WWTP), which includes a domestic wastewater collection system, headworks (comminutor), an activated sludge unit (aeration tank), two aeration ponds, a polishing pond, and a 92 acre-foot clay lined effluent storage reservoir. Effluent is disposed of by spray irrigation on 33 acres of land.
2. The Valley Springs Public Utility District WWTP is located along Highway 12 just east of the town of Valley Springs in Section 24, T4N, R10E, MDB&M
3. On 29 April 2005, the Regional Water Board adopted Waste Discharge Requirements (WDRs) Order No. R5-2005-0066, which prescribes requirements for the treatment and disposal of up to 78,500 gallons per day (gpd) of domestic wastewater.
4. On 4 April 2006, the Discharger notified Water Board staff that Cosgrove Creek, following prolonged and heavy rainfall, had overflowed its levee and was flowing through the treatment ponds at the WWTP prior to re-entering its normal channel. The Discharger estimated that the event resulted in a discharge of 24,000 to 36,000 gallons of partially treated sewage into Cosgrove Creek.
5. In a letter dated 28 April 2006, the Discharger reported the elevation of Cosgrove Creek resulting from a flow with a 100-year return frequency to be 644.2 feet. The same letter reported the berm elevation of one of the treatment ponds to be 642.5 feet. The calculations used to determine the 100-year elevation of the creek were based on a 1985 flood plain study.

6. The inundation of the treatment ponds and subsequent discharge to Cosgrove Creek violated WDRs Order No. R5-2005-0066, Discharge Prohibition A.1 and Discharge Specification B.10. Discharge Prohibition A.1 states that “[d]ischarge of wastes to surface waters or surface water drainage courses is prohibited.” Discharge Specification B.10 requires that the wastewater treatment, storage, and disposal system “*be designed, constructed, operated, and maintained to prevent inundation or washout due to floods with a 100-year return frequency.*”
7. As shown by the Discharger’s calculations, one of the pond berms is 1.7 feet below the 100-year flood elevation and therefore in violation of Discharge Specification B.10.
8. On 22 August 2006, the Discharger submitted a letter describing repairs made to the inundated ponds. This letter also described plans for (a) increasing the berm height to pre-inundation conditions as a short-term remedy and (b) increasing the berm height to a level sufficient to provide protection against inundation or washout due to floods with a 100-year return frequency as a long-term solution.
9. On 20 October 2006, the Discharger submitted a letter requesting consideration of construction of a new treatment facility outside of the 100-year flood elevation as a means of compliance. This letter also requested extension of the long-term solution deadline should construction of a new treatment facility be considered an acceptable means of compliance. Construction of a new treatment facility would require submission of a report of waste discharge and updated waste discharge requirements.
10. On 6 November 2006, the Discharger’s consultant submitted a request to allow up to 1 May 2006 to survey and analyze existing wastewater pond elevations and the 100-year flow levels in Cosgrove Creek, and to develop a plan to provide any necessary physical improvements based upon the survey and analysis.

REGULATORY CONSIDERATIONS

11. The Regional Water Board’s Water Quality Control Plan (Fourth Edition) for the Sacramento River and San Joaquin River Basins (Basin Plan) establishes the beneficial uses of waters of the state and water quality objectives to protect those uses.
12. Surface water drainage from the WWTP is to Cosgrove Creek, a tributary to the Calaveras River below New Hogan Dam. The beneficial uses of the Calaveras River are municipal and domestic supply; agricultural supply; industrial service supply; industrial process supply; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; migration of aquatic organisms; spawning, reproduction, and/or early development; and wildlife habitat.
13. The beneficial uses of underlying groundwater are municipal and domestic water supply, agricultural supply, industrial service supply, and industrial process supply.

14. Section 13304(a) of the California Water Code states the following:

“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 Water 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 Water 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. A cleanup and abatement order issued by the state board or a Regional Water Board may require the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup or 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.”

15. As described in Finding Nos. 4 through 6, the discharge of waste to surface waters is a violation of the Discharger’s WDRs. In addition, the discharge of wastewater to the surface waters of the state threatens to cause pollution or nuisance. The Discharger, by failing to control the discharge, has caused or permitted, or threatens to cause or permit, waste to be discharged in such a manner that it threatens to cause a threat to public health and/or create a condition of pollution or nuisance. Each of these actions subjects the Discharger to an order under section 13304 of the California Water Code.

16. Section 13267(b)(1) of the California Water Code states the following

“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. 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.”

17. The technical reports required by this Order are necessary to ensure compliance with this Cleanup and Abatement Order and WDRs Order No. R5-2005-0066, and to ensure the protection of the public health and safety and waters of the state. The Discharger owns and operates the facility that discharges waste subject to this Order.
18. 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.
19. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water 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 Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions are available at http://www.waterboards.ca.gov/water_laws/cawtrcde/wqpetition_instr.html and will be provided upon request.

IT IS HEREBY ORDERED that, pursuant to Sections 13304 and 13267 of the California Water Code, Valley Springs Public Utility District shall cleanup and abate, forthwith, the wastewater treatment facility such that all the requirements prescribed in WDRs Order No. R5-2005-0066 are met.

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. Beginning **10 December 2006** and continuing until the long-term solution is implemented, the Discharger shall conduct daily observations of the level of Cosgrove Creek relative to pond berm levels. Results shall be reported in a monthly report, which is due by the 1st day of the month following the reporting period (i.e., the December report is due by 1 February). This report may be combined with the monthly monitoring report required by WDRs Order No. R5-2005-0066.
2. By **20 December 2006**, the Discharger shall submit a report certifying that physical improvements to repair the pond levees to at least the elevation prior to the Spring 2006 floods have been completed, and that short-term contingency measures (e.g., sandbagging, installation of k-rails, etc.) to prevent inundation and/or washout of the treatment ponds due to future floods with a 100-year return frequency are ready to be implemented in case of an emergency.

3. By **1 May 2007**, the Discharger shall submit a *Wastewater Pond Elevation Evaluation and Improvement Report*. The report shall provide the elevations of the wastewater treatment and storage pond berms, and their relation to 100-year flood elevations from Cosgrove Creek. If it is determined that the wastewater treatment and/or storage ponds are not protected from a 100-year flood event, then the report shall describe what long term action(s) will be taken to ensure compliance with Discharge Specification B.10 of the WDRs.
4. The Discharger shall submit a report certifying compliance with Discharge Specification B.10 of the WDRs by (a) **31 August 2008** if the means of compliance identified in the *Wastewater Pond Elevation Evaluation and Improvement Report* is to construct a new treatment facility outside of the 100-year flood elevation or (b) **30 November 2007** for any other means of compliance identified in the report.
5. Beginning **1 January 2007**, and by the 1st day of the month following the reporting period, the Discharger shall submit monthly progress reports describing the work completed to date regarding each of the reporting requirements described above. This report may be combined with the report required in Item No. 1 above.

In addition to the above, the Discharger shall comply with all applicable provisions of the California Water Code that are not specifically referred to in this Order. As required by the California Business and Professions Code Sections 6735, 7835, and 7835.1, all technical reports shall be prepared by, or under the supervision of, a California Registered Engineer or Registered Geologist and signed by the registered professional.

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, 13271, 13350, and 13385. The Regional Water Board reserves its right to take any enforcement actions authorized by law.

This Order is effective upon the date of signature.

PAMELA C. CREEDON, Executive Officer

28 November 2006

(Date)