

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2006-0727

FOR
COUNTY OF ELDORADO,
EL DORADO IRRIGATION DISTRICT
AND
RANGER PIPELINES, INC.
EL DORADO COUNTY

This Order is issued to the County of El Dorado, El Dorado Irrigation District (EID) and Ranger Pipelines, Inc., hereafter referred to jointly as the Discharger, based on provisions of California Water Code section 13304, which authorizes the California Regional Water Quality Control Board, Central Valley Region (hereafter Water Board) to issue a Cleanup and Abatement Order (Order), and Water Code section 13267, which authorizes the Water Board to require preparation and submittal of technical and monitoring reports.

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

CIRCUMSTANCES OF VIOLATIONS

1. El Dorado Irrigation District owns and operates the drinking water treatment and distribution system serving the El Dorado Hills development. As part of planned expansion of the drinking water distribution system, EID contracted with Ranger Pipelines, Inc., to construct new drinking water supply pipelines. As part of construction of domestic water supply pipelines, the pipelines are disinfected with water solutions containing high concentrations of chlorine. The chlorinated water must be removed from the pipelines and the pipelines flushed with potable water before the new pipelines can be placed into domestic water supply service.
2. On 27 September 2006 the County of El Dorado submitted a Notice of Intent to discharge dechlorinated water from the pipeline disinfection process to New York Creek, and applied for coverage under Regional Board Order No. 5-00-175, "Waste Discharge Requirements General Order for Dewatering and Other Low Threat Discharges to Surface Waters". The operations plan submitted with the Notice of Intent included a plan to dechlorinate the wastewater prior to discharge to New York Creek.
3. On 3 October 2006, Assistant Executive Officer Kenneth Landau, acting for the Executive Officer, issued a Notice of Applicability to the County of El Dorado for the proposed discharge under Order No. 5-00-175.
4. On 6 October 2006, the Regional Board staff was informed that a discharge of chlorinated wastewater from the pipeline disinfection activity had occurred, resulting in a kill of fish and other aquatic life along approximately 0.5 miles of New York Creek. Inspection by staff of the Water Board and Department of Fish and Game confirmed

the fish kill, found concentrations of chlorine in New York Creek exceeding 0.02 mg/l and found pH in New York Creek below 6.5.

5. Water Board Order No. 5-00-175 requires, in part:
 - a. Discharge Prohibition A.1 *"...The wastewater shall not cause or threaten to cause pollution, contamination, or nuisance."*
 - b. Effluent Limitation B.2 *"Effluent discharged into a surface water body shall not contain chlorine in excess of 0.02 mg/l (instantaneous maximum). If the wastewater contains chlorine in excess of 0.02 mg/l, the Discharger shall certify that chlorine will be reduced to a maximum of 0.02 mg/l before wastes enter surface water."*
 - c. Effluent Limitation B.3 *"Effluent discharged into a surface water body shall not have a pH less than 6.5 nor greater than 8.5"*
 - d. Receiving Water Limitation D.7 *"The discharge shall not cause the following in the receiving water... The normal ambient pH to fall below 6.5, exceed 8.5, or change by more than 0.5 units."*
 - e. Receiving Water Limitation D.12 *"The discharge shall not cause the following in the receiving water...Aquatic communities and populations, including vertebrate, invertebrate, and plant species, to be degraded."*
 - f. Receiving Water Limitation D.13 *"The discharge shall not cause the following in the receiving water...Toxic pollutants to be present in the water column, sediments, or biota in concentrations that adversely affect beneficial uses; that produce detrimental response in human, plant, animal, or aquatic life...."*
 - g. Receiving Water Limitation D.14 *"The discharge shall not cause the following in the receiving water... Violation of any applicable water quality standard for receiving waters adopted by the Board or the State Water Resources Control Board pursuant to the CWA and regulations adopted thereunder."*
6. The discharge of chlorinated wastewater to New York Creek has violated all sections of Order No. 05-00-175 cited in the above Finding and has adversely impacted New York Creek. Continued discharge of wastewater from the pipeline disinfection activity threatens future violation of Order No-05-00-175 and adverse impact on New York Creek.

AUTHORITY – LEGAL REQUIREMENTS

7. Section 13304(a) of the California Water Code provides that:

"Any person who has discharged or discharges waste into waters of the 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 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. A cleanup and abatement order issued by the state board or a regional 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 regional 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.”

8. Section 13267(b)(1) 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 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.”

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

“If 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 government agency, the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of the waste within the meaning of subdivision (a), are liable to that government agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial actions. . .”

10. The Water Board's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, 4th Edition* (hereafter Basin Plan) designates beneficial uses of the waters of the State, establishes water quality objectives (WQOs) to protect these uses, and establishes implementation policies to implement WQOs. The beneficial uses of New York Creek include: municipal, industrial, and agricultural water supply; contact and non-contact recreation; and warm and cold freshwater habitat.

DISCHARGER LIABILITY

11. As described in the above Findings, the Discharger is subject to an order pursuant to Water Code section 13304 because the Discharger has caused or permitted waste to be discharged or deposited where it has discharged to waters of the state and has created, and continues to threaten to create, a condition of pollution or nuisance. The condition of pollution is a priority violation and issuance or adoption of a cleanup or abatement order pursuant to Water Code Section 13304 is appropriate and consistent with policies of the Water Board
12. The Discharger is subject to an order pursuant to Water Code section 13267 to submit technical reports because existing data and information indicate that waste has been discharged and threatens to be discharged in violation Order No. 5-00-175 and that environmental harm has occurred as the result of that discharge. The technical reports required by this Order are necessary to assure compliance with Section 13304 of the California Water Code, including to protect the beneficial uses of waters of the state, to protect against nuisance, and to protect human health and the environment.
13. If the Discharger fails to comply with this Order, the Executive Officer may request the Attorney General to petition the superior court for the issuance of an injunction.
14. If the Discharger violates this Order, the Discharger may be liable civilly in a monetary amount provided by the Water Code.
15. 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 (Public Resources Code, Section 21000, et seq.), pursuant to Title 14 CCR Section 15321(a)(2). The implementation of this Order is also an action to assure the restoration of the environment and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), in accordance with Title 14 CCR, Sections 15308 and 15330.
16. Any person affected by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Title 23 CCR Sections 2050-2068. The regulations may be provided upon request and are available at www.swrcb.ca.gov. The State Board must receive the petition within 30 days of the date of this Order.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13000, Section 13304 and Section 13267, the County of El Dorado, El Dorado Irrigation District and Ranger Pipelines, Inc. shall:

1. Immediately cease the discharge of wastewater from the pipeline disinfection project to New York Creek or to any other surface water body until both of the following have occurred:
 - a. The Discharger has submitted a plan, certified by a California Registered Civil Engineer, detailing how further discharges will fully comply with Order No. 5-00-175 (including Standard Provisions and Reporting Requirements), and specifically addressing compliance with Prohibition A.1 (pollution and nuisance); Effluent Limitations B.2 (chlorine residual) and B.3 (pH); and Receiving Water Limitations D.7 (pH), D.12 (degradation of aquatic communities), D.13 (toxic pollutants), and D.14 (violation of applicable water quality standards); and
 - b. The Discharger has received written approval of the compliance plan from the Executive Officer.
2. By 16 October 2006, the Discharger shall submit a written report describing the cause(s) of the chlorinated water discharge(s), assessing the extent of damage to the aquatic resource, and proposing a schedule of specific actions to mitigate the impacts of the discharge.
3. If the Discharger disposes of the wastewater by any means other than to New York Creek, the Discharger shall report the date, volume and location of the discharge, and provide documentation that the wastewater was properly disposed of at a permitted facility.

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.

This Order is effective upon the date of signature.

PAMELA CREEDON, Executive Officer

6 October 2006

(Date)