

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ORDER NO. R5-2008-0075

CEASE AND DESIST ORDER  
REQUIRING  
THE CITY OF MCFARLAND  
WASTEWATER TREATMENT FACILITY  
KERN COUNTY  
TO CEASE AND DESIST FROM  
DISCHARGING WASTE CONTRARY TO REQUIREMENTS

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

1. The City of McFarland (hereafter Discharger) owns and operates a wastewater treatment facility (WWTF) for the treatment of domestic and industrial wastewater. The WWTF is on the northwest corner of Perkins Avenue and Melcher Avenue about two miles west of the City of McFarland in the northeast quarter of Section 9, T26S, R25E, MDB&M. The Discharger is requesting an increase in the average daily flow rate from 1.1 million gallons per day (mgd) to 1.55 mgd. Discharge from the WWTF was regulated by Waste Discharge Requirements Order No. 89-154. On 25 April 2008, the Regional Water Board adopted [Waste Discharge Requirements](#) (WDRs) [Order No. R5-2008-0072](#) to regulate the WWTF.
2. The WWTF consists of a headworks, mechanical screening, grit removal, four aeration lagoons, and two storage ponds. The Discharger reclaims its effluent on about 240 acres (160 acres of wine grapes and 80 acres of alfalfa) of Discharger-owned farmland.
3. Order No. 89-154 specified, in part, the following:

\* \* \*

**“B. Discharge Specifications:**

12. Use of Reclaimed Wastewater shall be limited to flood irrigation of fodder, fiber, and seed crops.

\* \* \*

4. [Order No. R5-2008-0072](#) specifies, in part, the following:

\* \* \*

**“D. Recycling Specifications:**

2. Use of recycled water shall be limited to flood irrigation of fodder, fiber, seed crops not eaten by humans or for grazing of non-milking cattle and shall comply with the provisions of Title 22.

\* \* \*

5. The Discharger violated [Discharge Specification No. B.12](#) of Order No. 89-154 for continuing to irrigate crops other than fodder, fiber, or seed crops. When the WDRs were adopted in 1989, Title 22 also allowed the discharge of non-disinfected secondary treated wastewater to food crops where recycled water does not come into contact with the edible portion of the food crop and where the food crop undergoes commercial pathogen-destroying processing before being consumed by humans. In January 2003, the California Department of Health Services (now the Department of Public Health [DPH]) issued a memorandum stating that contact with recycled water is likely to occur in vineyards and that there may be a potential for pathogens to gain access to the interior of fruits. The DPH now recommends that all vineyards be irrigated with water that meets the requirements of disinfected secondary-2.2 recycled water as defined in Title 22. Regional Water Board staff notified the Discharger of this information in a 9 August 2004 letter.
6. In June 2004, the Discharger submitted a Report of Waste Discharge (RWD) describing measures that would increase the 30-day average daily dry weather discharge to 1.55 million gallons per day (mgd). The RWD proposed constructing a new 10-acre disposal pond, discontinuing irrigation of the 160-acre vineyard, converting the 75-acre parcel north of the WWTF from wheat to alfalfa, and converting about 145 acres of the vineyard to alfalfa.
7. The Discharger submitted a *McFarland Storage Pond Expansion – Progress Update* letter on 23 June 2006. The letter indicated the Discharger would require a minimum of 100-acres of alfalfa in addition to the disposal ponds for the disposal of recycled wastewater. The letter indicated that the 75-acre parcel would be converted to alfalfa, and that the Discharger was “considering” converting 80-acres of the wine grapes to alfalfa. Recent conversations with the operator indicate the 80-acres of wine grapes has not been converted and the Discharger was again looking into acquiring more land for the discharge of treated effluent.
8. During a recent inspection conducted as part of the update of WDRs, the Plant Operator indicated the discharge of untreated wastewater to the wine grapes continues.
9. 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. In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to such system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order. Cease and desist orders may be issued directly by a board, after notice and hearing, or in accordance with the procedure set forth in Section 13302.

10. California Water Code section 13267, states, in part, that:

(a) A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirements or authorized by this division, may investigate the quality of any waters of the state within this region.

(b)(1) 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.

11. The technical reports required by this Order are necessary to assure compliance with the Cease and Desist Order and Waste Discharge Requirements, and to assure protection of the public health and safety. The Discharger operates the facility that discharges the waste subject to this Order.
12. The issuance of this Order is an enforcement action 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.
13. On 25 April 2008, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Regional Water Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order.
14. Any person adversely 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 sections 2050 through 2068, Title 23, California Code of Regulations. The petition must be received by the State Water Board Office of the Chief Counsel, P.O. Box 100, Sacramento, California 95812-0100, within 30 days of the date on which the Regional Water Board action took place. Copies of the law and regulations applicable to filing petitions may be found on the Internet at [www.waterboards.ca.gov/centralvalley](http://www.waterboards.ca.gov/centralvalley) or will be provided upon request.

**IT IS HEREBY ORDERED** that, pursuant to sections 13301 and 13267 of the California Water Code, the City of McFarland, its agents, successors, and assigns, shall:

1. Cease and desist discharging wastes in violation and threatened violation of WDRs [Order No. R5-2008-0072](#). No term or condition of [WDRs Order No. R5-2008-0072](#), referenced above, is superseded or stayed by this Cease and Desist Order except as provided for below.

2. Implement long-term measures to secure adequate treatment and disposal capacity for the volume, type, and concentrations of wastes that are projected to be discharged into the collection system. Compliance with this item shall be achieved in accordance with the following tasks and time schedule:

<u>Task</u>	<u>Compliance Date</u>	<u>Report Due</u>
1. Certify that recycled water is only used for fodder, fiber, seed crops not eaten by humans or for grazing of non-milking cattle.	1 January 2009	31 January 2009

If, in the opinion of the Executive Officer, the Discharger violates this Order, the Executive Officer may refer the matter to the Attorney General for judicial enforcement or alternately issue a formal complaint for Administrative Civil Liability.

I, PAMELA CREEDON, 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 25 April 2008.

---

PAMELA C. CREEDON, Executive Officer

JSP: 4/25/08