

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0515

IN THE MATTER OF
LAKE COUNTY SANITATION DISTRICT
SOUTHEAST REGIONAL WASTEWATER SYSTEM
LAKE COUNTY

This complaint is issued to the Lake County Sanitation District (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, CWC section 13323, which authorizes the Executive Officer to issue this complaint, and CWC section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This complaint is based on findings that the Discharger violated provisions of the Waste Discharge Requirements (WDRs) Order No. 96-166 and failed to fully comply with Cleanup and Abatement Order (CAO) No. R5-2005-0701.

The Assistant Executive Officer of the Central Valley Regional Water Quality Control Board (Regional Water Board) finds the following:

1. The Discharger owns and operates the wastewater collection, treatment and disposal system that serves a population of over 15,000 (7,761 equivalent dwelling units) in Clearlake and the surrounding communities of Pirates Cove and Lower Lake, Lake County. The Wastewater Treatment Facility (WWTF) is regulated by WDRs Order No. 96-166, which was adopted by the Regional Water Board on 21 June 1996. The Discharger is solely responsible for compliance with the WDRs.
2. The WWTF includes a headworks facility, a series of aerated ponds, a chlorine contact ditch, and a 176 million gallon effluent storage reservoir. All wastewater receives secondary treatment and disinfection. The WDRs require that the monthly average wet weather effluent flow not exceed the treatment plant capacity of 6.1 million gallons per day (mgd). The wastewater is subsequently pumped into the Southeast Geyser Pipeline system for transport to the geysers area and injection into the geothermal resource. The treatment facility is located in Sections 9, 10, 15, and 16, T13N, R7W, MDB&M.
3. On 17 May 2004, the Executive Officer issued an Administrative Civil Liability (ACL) Complaint in the amount of \$300,000 to the Discharger for numerous wastewater spills totaling approximately 1.2 million gallons from March 2002 through April 2004 from the Southeast Regional Wastewater System and for violations of WDRs Order No. 96-166. The Executive Officer finalized a settlement agreement with the Discharger on 8 January 2005. The settlement required two payments totaling \$210,000 over a one-year period, which were paid in full.
4. On 8 February 2005, the Executive Officer issued Cleanup and Abatement Order (CAO) No. R5-2005-0704. The CAO was issued for the numerous wastewater spills described in the ACLC and violations of WDRs. The CAO sets forth an enforceable scope and

schedule for completion of technical studies and physical improvements to determine a long-term solution for ongoing violations of WDRs Order No. 96-166.

Violations Since the 2005 Cleanup and Abatement Order

5. The CAO required the Discharger to comply with all aspects of its WDRs, including Discharge Prohibitions A.1 and A.2.
 - a. Discharge Prohibition A.1 states: *“Discharge of wastes, effluent, or injection water to surface waters or surface water drainage courses is prohibited.”*
 - b. Discharge Prohibition A.2 states: *“Bypass or overflow of untreated or partially treated effluent is prohibited.”*
6. Since the CAO was issued in February 2005, the Discharger has reported 19 spills of raw sewage from its collection system totaling 197,819 gallons, as summarized below and in Findings Nos. 7 through 14.

Date of Spill	Reported Volume Discharged (Gallons)	Discharge to Surface Water Drainage Course?	Spill Location	Cause of Spill
31-Jul-05	22,821	No	Burns Valley and Turner Road	Lift station No. 1 shutdown due to electrical control panel failure during high temperature
2-Aug-05	28,760	No	Burns Valley and Turner Road	Lift station pump shutdown due to power supply surge
30-Nov-05	1,575	Yes	37th and Irving Ave	Vandalized manhole cover
31-Dec-05	11,750	Yes	Burns Valley and Turner Road	Inflow/Infiltration (I/I) problems caused by heavy rains
31-Dec-05	10,000	Yes	Meadowbrook Drive	I/I problems caused by heavy rains
2-Mar-06	570	No	Yarrington and Old Highway 53	Grease blockage in gravity sewer line
27-Feb-06	5,400	Yes	Meadowbrook Drive	I/I problems caused by heavy rains
5-Mar-06	46,650	Yes	Meadowbrook Drive	I/I problems caused by heavy rains
25-Apr-06	42,400	Yes	Meadowbrook Drive	I/I problems caused by heavy rains
30-May-06	1,485	No	El Camino Real	Root and grease blockage in sewer main
20-Sept-06	820	No	Lakeshore Drive and Hwy 53	Grease blockage in sewer main
28-Sept-06	588	No	Pineview Drive	Grease blockage in sewer main

Date of Spill	Reported Volume Discharged (Gallons)	Discharge to Surface Water Drainage Course?	Spill Location	Cause of Spill
18-Oct-06	300	No	Ballpark Ave	Partial blockage resulted from vandalized manhole
14-Nov-06	1,350	Yes	Burns Valley and Turner Road	Power outage and backup generator failure
17-Jan-07	200	Yes	Wayland Avenue	Ruptured pipe connected to surge tank at Lift Station No.3
4-Jan-08	4,500	Yes	Meadowbrook Drive	I/I problems caused by heavy rains
4-Jan-08	800	Yes	Beach Drive and Ballpark Ave	Blockage in gravity sewer line.
25-Jan-08	9,000	Yes	Burns Valley and Turner Road	I/I problems caused by heavy rains
26-Jan-08	8,850	Yes	Meadowbrook Drive and Lakeview Way	I/I problems caused by heavy rains

7. On 4 May 2005, Regional Water Board staff issued a Notice of Violation (NOV) to the Discharger for a raw sewage spill estimated at 1,575 gallons that occurred on 30 November 2005 from overflowing manhole at 37th and Irving Avenue in Clearlake. The spill entered into Molesworth Creek, a tributary to Clear Lake.
8. On 31 August 2005, an NOV was issued to the Discharger for two separate raw sewage spills of 22,821 and 28,760 gallons that occurred in July and August 2005. Both of the spills were from manholes located at the corner of Burns Valley Road and Turner Avenue and entered a dry drainage ditch where they were confined. The spills were the result of a power supply surge causing a fuse to blow and shutting down the pump.
9. On 9 June 2006, the Discharger was issued an NOV for six separate raw sewage spills that occurred in December 2005, and February, March and April 2006. The spills are summarized as follows:
 - a. The December 2005 spill estimated at 1,750 gallons occurred from overflowing manholes located on Burns Valley Road near Pump Station No. 1 in Clearlake. This spill entered a storm drain and eventually into Clear Lake and was caused by surcharging manholes and the pump station's inability to handle the increased flows.
 - b. Four of the spills occurred from three surcharging manholes located along Meadowbrook Drive in February, March and April 2006. These spills totaled 104,450 gallons and entered a drainage ditch that leads to Mueller and Cache

Creeks. The spills resulted from excessive I/I within the collection system due to heavy rains.

- c. The final spill was estimated at 570 gallons and occurred on 2 March 2006. This spill was from a manhole near the intersection of Yarrington and Old Highway 53 and did not enter any surface waters. The spill was caused by a debris and grease blockage in the gravity line.
10. On 2 August 2006, an NOV was issued to the Discharger for a raw sewage spill estimated at 1,485 gallons that occurred on 30 May 2006. The spill was located at a sewer line cleanout at 14449 El Camino Real within the City of Clearlake. The spill entered a dry drainage ditch along the roadway and did not enter surface waters. The spill resulted from a root and grease blockage in the main sewer line.
11. On 15 November 2006, the Discharger was issued an NOV for two separate raw sewage spills estimated at 820 and 588 gallons that occurred in September 2006. The 820-gallon spill was due to an overflowing manhole near the intersection of Lakeshore Drive and Highway 53 in Clearlake. The spill entered a dry drainage area in a wooded area near the highway and did not enter surface waters. The 588-gallon spill was from an overflowing manhole located at the end of Pineview Drive in Clearlake. Both of these spills resulted from grease blockages in the sewer main.
12. On 16 January 2007, the Discharger was issued an NOV for two separate raw sewage spills estimated at 300 and 1,350 gallons that took place in October and November 2006. The 300-gallon spill occurred from an overflowing sewer cleanout near a public restroom at Ballpark Avenue. The spill did not enter surface waters. The spill was caused by a partial blockage in the sewer line from a basketball found in a manhole that was reported as an act of vandalism. The 1,350-gallon spill occurred on 14 November 2006 at Burns Valley Road and Turner Avenue from an overflowing pump station caused by a power outage and a backup generator failure. The spill entered onto a roadway and into a dry drop inlet that is part of the storm drain system the leads to Clear Lake.
13. On 22 March 2007, an NOV was issued to the Discharger for a raw sewage spill estimated at approximately 200 gallons that occurred on 17 January 2007. The spill occurred from a ruptured pipe connected to a surge tank at Lift Station No. 3, which is located at Wayland Avenue. The spill ran across a neighbor's driveway and entered a drainage ditch behind the property. The spill then flowed to an adjacent boat ramp and into Clear Lake.
14. On 22 February 2008, an NOV was issued for two raw sewage spills estimated at 4,500 and 800 gallons that occurred on 4 January 2008, a spill estimated at 9,000 gallons that occurred on 25 January 2008, and an 8,850 gallon spill that occurred on 26 January 2008. The 4,500 and 8,850 gallon spills occurred from overflowing manholes along Meadowbrook Drive and the 9,000-gallon spill occurred from an overflowing manhole

along Burns Valley Road and Turner Avenue. The 4,500-gallon spill entered Mueller and Cache Creeks, and the 9,000-gallon spill entered a drainage ditch connected to Clear Lake. These three spills resulted from surcharging manholes related to periods of heavy rains. The 800-gallon spill occurred from an overflowing manhole at Beach Drive and Ball Park Avenue and was to Clear Lake. This spill was caused by a blockage in the gravity sewer line.

15. In summary, from 31 July 2005 through 26 January 2008 the Discharger has reported 19 raw sewage spills totaling 197,819 gallons from the southeast wastewater collection system. Of these, 13 spills (totaling 142,475 gallons) entered Clear Lake or surrounding surface water drainage courses. In addition, Regional Water Board staff issued eight NOVs for violating the WDRs.

REGULATORY CONSIDERATIONS

16. As described in the above Findings, the Discharger has violated WDRs Order No. 96-166 by discharging waste to surface waters or surface water drainage courses, and by bypassing the treatment system. In addition, the Discharger has violated CAO No. R5-2005-0704 for not immediately complying with all aspects of the WDRs.
17. Section 301 of the Clean Water Act (33 U.S.C. § 1311) and CWC section 13376 prohibits discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit.
18. 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.”*
19. WDRs Order No. 96-166 is not an NPDES permit. Therefore, 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, the Discharger has violated CWC section 13376.
20. 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.”

21. For discharging waste to surface waters in violation of the WDRs, the Regional Water Board may assess administrative civil liability based on CWC section 13385. The maximum administrative civil liability which can be imposed by the Regional Water Board under CWC section 13385 is \$10,000 per day of discharge plus \$10 per gallon discharged in excess of 1,000 gallons which is spilled to surface waters. As stated in the Findings, 142,475 gallons of raw sewage were discharged to surface waters on 13 occasions for a total of 13 days. Of this total, 131,475 gallons were discharged in excess of 1,000 gallons per spill event. Therefore, the maximum administrative civil liability is \$190,000 (19 days times \$10,000 per day) plus \$1,314,750 (131,475 gallons times \$10 per gallon), for a total maximum liability of \$1,504,750.
22. 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.”
23. Pursuant to CWC section 13385(e), administrative civil liability at minimum must be equivalent to the economic benefit accrued by the Discharger for not implementing management and physical improvements necessary to prevent the discharges. Approximately 138,550 of the 197,819 gallons of spilled raw sewage resulted from I/I problems at Meadowbrook and Burns Valley Roads. Because of the unknown I/I problems at these locations Regional Water Board staff is unable to precisely calculate the economic benefit. The economic benefit would be equal to the deferred costs associated with postponing repairs to fix the I/I problems at this portion of the collection system, and is estimated to be below the assessed penalty.
24. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code section 21000, et. seq.), in accordance with California Code of Regulations, title 14, section 15321 (a) (2).

LAKE COUNTY SANITATION DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Regional Water Board charges the Discharger with an administrative civil liability in the amount of **sixty thousand dollars (\$60,000)**. The amount of the proposed liability is based upon a review of the factors cited in California Water Code section 13385 and the State Water Resources Control Board's Water Quality Enforcement Policy, and includes consideration of the economic benefit or savings resulting from the violations.
2. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **12/13 June 2008**, unless the Discharger agrees to complete the following by **21 April 2008**:
 - i. Waive the hearing by completing the attached form and returning it to the Regional Water Board; and
 - ii. Pay the proposed civil liability of sixty thousand dollars (\$60,000) in full.

The hearing waiver and payment (in the form of a check made payable to the *State Water Pollution Cleanup and Abatement Account*) should be sent to the Regional Water Board's office at 11020 Sun Center Drive, Suite #200, Rancho Cordova, CA 95670, by **21 April 2008**.

3. If a hearing is held, the Regional Water 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.

JACK E. DEL CONTE, Assistant Executive Officer

20 March 2008

**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 Lake County Sanitation District (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0515 (hereinafter the "Complaint");
2. I am informed of the right provided by California Water Code section 13323, subdivision (b), to a hearing within ninety (90) days of service 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 service of the Complaint; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **sixty-thousand dollars (\$60,000)** by check, which contains a reference to "ACL Complaint No. R5-2008-0515" and is made payable to the "*State Water Pollution Cleanup and Abatement Account*."
5. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. Should the Regional Board receive new information during this comment period, the Regional Board may withdraw the complaint, return payment, and issue a new complaint.
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.

(Print Name and Title)

(Signature)

(Date)