

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2005-0719

FOR
JOHN AND LINDA FRAZIER
UNITED STATES DEPARTMENT OF INTERIOR, BUREAU OF RECLAMATION
MARKLEY COVE RESORT
WASTEWATER TREATMENT FACILITY
NAPA COUNTY

This Order is issued to John and Linda Frazier and the United States Department of Interior, Bureau of Reclamation (hereafter "Discharger") based on provisions of California Water Code Section 13304, which authorizes the Regional Water Quality Control Board, Central Valley Region, (hereafter Regional Board) to issue a Cleanup and Abatement Order.

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

1. John and Linda Frazier own and operate the Markley Cove Resort wastewater treatment facility, which is comprised of a domestic wastewater collection system and two oxidation ponds. Wastewater is disposed of by percolation and evaporation.
2. The facility occupies land administered by the United States Department of Interior, Bureau of Reclamation (USBR) and is operated by a concessionaire, John and Linda Frazier.
3. The Markley Cove Resort Wastewater Treatment Facility is located at 7251 Highway 128 in Section 31, T8N, R2W, MDB&M.
4. On 17 April 1998, the Regional Board adopted Waste Discharge Requirements (WDRs) Order No. 98-084, which prescribes requirements for the collection and treatment of up to 11,500 gallons per day (gpd) of domestic wastewater. The WDRs state that the wastewater system services a general store, a bar, 26 houseboat units, and 59 permanent mobile home units.
5. On 11 October 2005, a Notice of Violation was issued to the Discharger for a domestic wastewater spill estimated at approximately 14,197 gallons.
6. The Discharger's spill report stated that on 11 February 2005, an individual discovered that the Coleman Spring had a sewage-like hydrogen sulfide type odor. The spring is on a hillside approximately 1,000 feet below the wastewater ponds. Following this discovery, on 17 February 2005, the USBR performed a "Nessler" test to determine if the spring water contained fecal coliform. After the results showed positive, the Discharger installed a pipe to divert the spring water into a 15,000 gallon plastic lined emergency containment pond adjacent to the spring. The spring water is currently flowing into containment pond and is pumped and hauled to a lift station within the Markley Cove collection system for disposal.

7. The Discharger placed tracer dye tablets into all three lift stations to determine if the water flowing from the Coleman Spring is associated with the wastewater ponds. The dye test confirmed that wastewater from the ponds is percolating through the hillside and exiting at the spring. The results of the dye testing were confirmed on 2 May 2005 as documented in the 1 September 2005 follow-up spill report.
8. On 1 November 2005, the Discharger's consultant submitted a plan and time schedule to reconstruct the two wastewater ponds to reduce their percolation rates and prevent the discharge of wastewater to Coleman Spring. In summary, the plan described (a) removal of soil from the ponds its placement on the ponds berms, (b) compaction of the pond bottoms with a blend of native soil and bentonite, and (c) adding a tracer dye to the wastewater pond system and performing further monitoring of Coleman Spring to detect any continuing contamination.
9. The Discharger is in violation of Discharge Prohibition Nos. A.1 and A.2 of the WDRs, as follows:
 - Discharge Prohibition No. A.1 states: "*Discharge of wastes to surface waters or surface water drainage is prohibited.*"
 - Discharge Prohibition No. A.2 states: "*Bypass or overflow of untreated or partially treated waste is prohibited.*"

REGULATORY CONSIDERATIONS

10. The Discharger has discharged waste in violation of its WDRs because it is unable to comply with Discharge Prohibition Nos. A.1 and A.2. Due to discharges of wastewater into surface water and surface drainage courses, the Discharger has caused or permitted, or threatens to cause or permit, waste to be discharged in such a manner that threatens to create a condition of pollution or nuisance.
11. The Regional 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 is to Lake Berryessa. The beneficial uses of Lake Berryessa are municipal and domestic supply; agricultural supply; power generation; water contact recreation; noncontact water recreation; warm freshwater habitat; cold freshwater habitat; migration of warm and cold freshwater aquatic organisms; spawning, reproduction and/or early development of warm freshwater aquatic organisms; and wildlife habitat.
13. Beneficial uses of the underlying groundwater are municipal and domestic supply, agricultural supply, and industrial supply.
14. Section 13304(a) of the California Water Code provides that: "Any person who has discharged or discharges waste into waters of this 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 water 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 case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts. 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. Section 13267(b) 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.”
16. The technical reports required by this Order are necessary to ensure compliance with this C&A Order and WDR Order No. 98-084, and to ensure the protection of the public health and safety. The Discharger owns and operates the facility that discharges waste subject to this Order.
17. 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.
18. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State 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 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 also be provided upon request.

IT IS HEREBY ORDERED that, pursuant to Sections 13304 and 13267 of the California Water Code, John and Linda Frazier and the U.S. Department of Interior Bureau of Reclamation shall cleanup and abate, forthwith, the wastewater treatment facility such that all the requirements prescribed in WDRs Order No. 98-084 are met. “Forthwith” means as soon as is reasonably possible, and in accordance with the following schedule.

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. **Effective immediately**, the Discharger shall continue collecting the water emanating from the Coleman Spring and transporting it to the wastewater collection system. This task shall continue until a tracer dye test confirms that the wastewater ponds have been adequately sealed to prevent the discharge of wastewater to the spring.
2. By **1 July 2006**, the Discharger shall submit a report describing the visual inspection of the pipeline between the lift station and the wastewater ponds for signs of leaks. The inspection shall occur while the pipeline is pumping. The entire pipeline shall be walked. If the inspection results show that the pipeline is leaking and in need of repair, the report shall contain proposed measures to complete the repairs, and a schedule of those repairs.
3. By **1 September 2006**, the Discharger shall submit a *Pond Reconstruction Completion Report* describing specific steps taken to make repairs to the wastewater treatment system to prevent the seepage of wastewater to Coleman Spring. The report shall demonstrate that the Discharger followed the steps outlined in the 1 November 2005 maintenance and reconstruction workplan (Attachment A to this Order). The report shall also document that the dye test began at least by August 2005.
4. By **1 November 2006**, the Discharger shall submit a *Water Balance Report* demonstrating whether or not the wastewater ponds contain adequate storage and disposal capacity to ensure full compliance with the WDRs. The water balance shall evaluate the containment structures' ability to provide sufficient capacity to maintain two feet of freeboard on a month-by-month basis. The water balance shall include monthly evaporation, precipitation, percolation rates calculated from field-testing, and shall identify contributions from major sources to monthly discharge volumes such as subsurface inflows, storm water run-on, and any inflow and infiltration from the collection system. Rainfall shall be based on the 100-year return period total annual precipitation. In order to provide accurate percolation rates for the water balance, the Discharger shall complete a percolation test on the reconstructed ponds.
5. By **1 January 2007**, the Discharger shall submit a *Dye Test Report* describing the results of the dye test. For a period of five months after placing the dye into the collection system, the Discharger shall inspect Coleman Spring at least twice weekly. If no dye is found at the end of this period, then the Discharger may cease collecting the spring water (Item No. 1, above). If dye is found, then the report shall also contain a revised plan and proposed timeline to reconstruct the wastewater ponds and/or treat the wastewater such that wastewater does not enter Coleman Spring in violation of the WDRs.

6. Beginning **1 February 2006**, and by the first day of the end of each following quarter, (**i.e., by 1 April, 1 July, etc.**) the Discharger shall submit a progress report describing the work completed to date regarding each of the reporting requirements described above. The progress report shall include results of the sampling described in Attachment A and the status of the pond reconstruction project. Coliform samples shall be analyzed for both total and fecal coliform.

In addition to the above, the Discharger shall comply with existing WDRs Order 98-084 and 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 reports shall be prepared by, or under the supervision of, a California Registered Engineer or Professional 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 per day or up to \$10,000 per day of violation, depending on the violation, pursuant to the California Water Code, including Sections 13268, 13271, and 13350. The Regional Board reserves its right to take any enforcement actions authorized by law.

This Order is effective upon the date of signature.

Original Signed by
THOMAS R. PINKOS, Executive Officer

14 December 2005
(Date)

Attachment A: *Markley Cove Implementation for Maintenance and Reconstruction of the Wastewater Treatment Plant* dated 1 November 2005