

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER R5-2012-0711
FOR

ROBERT JOE AND CAPELL VALLEY ESTATES, INC.
CAPELL VALLEY MOBILE HOME PARK
WASTEWATER TREATMENT FACILITY
NAPA COUNTY

This Order is issued to Robert Joe and Capell Valley Estates, Inc. based on provisions of Water Code section 13304, which authorizes the California Regional Water Quality Control Board, Central Valley Region, (hereafter "Central Valley Water Board" or "Board") to issue a Cleanup and Abatement Order (CAO), and Water Code section 13267, which authorizes the Board to require the submittal of technical reports.

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

1. Robert Joe and Capell Valley Estates, Inc. (hereafter collectively referred to as "Discharger") own and operate the Capell Valley Mobile Home Park Wastewater Treatment Facility (WWTF). On 22 April 1994, the Central Valley Water Board adopted Waste Discharge Requirements (WDRs) Order 94-099 to regulate discharges from the WWTF. Approximately 9,600 gallons per day of septic tank effluent is discharged to three evaporation/percolation ponds and one emergency overflow pond.
2. The treatment system currently serves approximately 59 sewer connections, which include the mobile home park, church, restaurant, gas station, and domestic wastewater from Moss Creek Winery. The facility is located at 6004 Monticello Road, near the corner of Capell Valley Road, Highway 128 and Steele Canyon Road, in Section 16 T7N, R3W, MDB&M.

CAPACITY VIOLATIONS

3. Discharge Specification B.7 of the WDRs Order 94-099 states: *"Ponds shall have sufficient capacity to accommodate allowable wastewater flow and design seasonal precipitation and ancillary inflow and infiltration. Design seasonal precipitation shall be based on total annual precipitation using a return period of 100 years, distributed monthly in accordance with historical rainfall patterns. Freeboard shall never be less than two feet (measured vertically to the lowest point of overflow)."*
4. Following a series of heavy rainfall events, Central Valley Water Board staff contacted Capell Valley Mobile Home Park on 25 March 2011 to ask whether there were any freeboard issues at the facility. The Maintenance Manager indicated that the freeboard in the wastewater ponds was less than 0.5 feet, and that the following actions were being implemented to prevent a spill: (a) adding sand bags to raise a low section of the berm in

pond 3, and (b) renting a 20,000 gallon storage tank for the temporary storage of wastewater.

5. In a follow-up conversation on 12 April 2011, the Maintenance Manager indicated that the freeboard in the wastewater ponds had dropped approximately one foot, and with the addition of sand bags was greater than two feet. In addition, the Maintenance Manager indicated that the temporary storage tank had not been used.
6. On 6 May 2011, Water Board staff issued a Notice of Violation (NOV) to the Discharger for violating Discharge Prohibition B.7 of WDRs Order 94-099. The NOV required the Discharger to:
 - a. Perform daily inspections of the wastewater ponds that included daily freeboard measurements from the lowest point of overflow in each of the ponds and daily observations of each of the berms for any presence of possible seepage.
 - b. Submit a *Short Term Contingency Plan* describing steps to be taken to increase pond freeboard to comply with the WDRs, and to prevent the possibility of a berm failure.
 - c. Submit a *Water Balance Report* to evaluate the wastewater treatment, storage and disposal capacity and ability of the ponds to maintain at least two feet of freeboard at all times.
7. On 13 June 2011, the Discharger submitted the *Short Term Contingency Plan* which stated that, whenever the wastewater levels encroach within two feet of freeboard, a submersible pump and portable generator will be available to transfer wastewater between the three ponds, and sand and bags will be available onsite. In addition, a letter was sent to the park residents regarding the conservation of water.
8. On 13 September 2011, the Discharger submitted the *Water Balance Report* which indicated that the facility does not have adequate storage and disposal capacity to contain a 100-year, 365-day precipitation at two-feet of freeboard, as required by WDRs Order 94-099. In addition, the *Water Balance Report* showed that the facility does not have enough capacity to contain a 10-year, 365-day precipitation event at two-feet of freeboard.
9. The *Water Balance Report* included recommendations to (a) increase the height of the west pond levees to an elevation equal to the east pond levees, and (b) remove the sludge from the ponds.
10. In a 12 October 2011 letter, Board staff stated that the recommendations were generally acceptable, and requested a detailed workplan and schedule. The schedule to complete the work was not to extend beyond October 2012.

11. On 5 December 2011, the Discharger submitted a letter stating that they were in the process of preparing a workplan and schedule to make improvements. The proposed improvements would include: removing the sludge from the ponds, scarifying the pond bottoms, and increasing the height of the pond berms. In addition, the letter stated that the Discharger was waiting on a proposal from a contractor to determine the costs associated with the project. The letter also stated that, due to funding issues, it was not realistic to complete the improvements by October 2012. Finally, the letter stated that the Discharger was discussing with the Local Agency Formation Commission (LAFCO) regarding the possibility of forming a Special District.

OTHER VIOLATIONS

12. Provision E.1 of WDRs Order 94-099 states: *“The Discharger shall comply with the Monitoring and Reporting Program No. 94-099, which is part of this Order, and any revisions thereto as ordered by the Executive Officer.”* The Executive Officer issued a Revised Monitoring and Reporting Program (MRP) on 4 April 2006.
13. Discharge Specification B.1 of WDRs Order 94-099 states: *“As a means of discerning compliance with Discharge Specification No. 1, the dissolved oxygen content in the upper zone (1 foot) of the wastewater in the ponds shall not be less than 1.0 mg/L.”*
14. On 4 May 2012, following a review of monitoring reports for the period of January 2011 through March 2012, Board staff issued an NOV for incomplete and late monitoring report submittals, and for violations of Discharge Specification B.1 of WDRs Order 94-099. The violations included:
 - a. The January 2011 and February 2011, and the November 2011 through March 2012 monitoring reports not include weekly pond freeboard measurements.
 - b. The January 2011 through March 2012 monitoring reports did not include odor observation results.
 - c. The January 2011 through March 2012 monitoring reports not include weekly dissolved oxygen measurements.
 - d. Of the fourteen monitoring reports that were reviewed, ten were submitted late. The reports that were most overdue were the May and June 2011 reports, which were 178 and 209 days late.
 - e. Dissolved oxygen was reported in the wastewater ponds at less than 1.0 mg/L in the September 2011, December 2011, and January 2012.
15. Provision D.1 of WDRs Order 94-099 states: *“The discharge shall not cause underlying groundwater to be degraded.”*

16. A review of groundwater monitoring reports submitted since the third quarter 2008 shows that coliform organisms are present in the three groundwater monitoring wells surrounding the ponds. The concentrations are inconsistent, ranging from 1 to greater than 2,400 MPN/100 mL. The highest concentrations were generally reported in Monitoring Well (MW) 2, located on the east side of the wastewater ponds, and in MW-3, located southeast of the ponds and near Oak Moss Creek.
17. The monitoring reports state that the groundwater monitoring wells are sampled by the Discharger's staff, who were trained by the Discharger's consultant during the third quarter 2008 sampling event. Based on a recent conversation with the Discharger, it appears that the sampling equipment used to purge the wells is not decontaminated per the process in the Discharger's 30 April 2008 Groundwater Sampling and Analysis Plan (SAP). This lack of correct sampling technique may be one reason for the high but inconsistent coliform detections in the groundwater monitoring wells.

REGULATORY CONSIDERATIONS

18. Although the water balance shows that the Discharger has serious capacity problems, the Discharger has never submitted the workplan and schedule that was promised in the Discharger's 5 December 2011 letter. Therefore, it is appropriate to issue this Cleanup and Abatement Order to provide formal, enforceable timelines to bring the facility into compliance with WDRs Order 94-099.
19. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition*, (the "Basin Plan") designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Board. Pursuant to Water Code section 13263(a), waste discharge requirements must implement the Basin Plan.
20. Surface water drainage is to Oak Moss Creek, a tributary to Capell Creek which flows into Lake Berryessa.
21. The beneficial uses of Lake Berryessa, as stated in the Basin Plan, are municipal and domestic supply; agricultural supply; power generation; water contact recreation; noncontact water recreation; warm freshwater habitat; cold freshwater habitat; spawning, reproduction and/or early development; and wildlife habitat.
22. The beneficial uses of the underlying groundwater are municipal and domestic supply, agricultural supply, industrial service supply, and industrial process supply.
23. Water Code section 13304(a) states, in relevant part:

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 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.

24. Water Code section 13267(b) states, in relevant part:

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 ... 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.

25. The technical reports required by this CAO are necessary to ensure compliance with this CAO and WDRs Order 94-099, and to ensure the protection of water quality. The Discharger owns and operates the facility that discharges waste subject to this CAO and WDRs Order 94-099.
26. 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 (Pub. Resources Code, § 21000 et seq.) pursuant to California Code of Regulations, title 14, section 15321(a) (2).

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13304 and 13267, Robert Joe and Capell Valley Estates, Inc. shall cleanup and abate the Capell Valley Mobile Home Park WWTF in accordance with the scope and schedule set forth below, in order to comply with WDRs Order 94-099.

1. The Discharger shall **immediately** implement the 13 June 2011 *Short-Term Contingency Plan* whenever there is two feet or less of freeboard in any pond. If the freeboard in the ponds is less than two feet, the Discharger shall immediately contact Board staff by telephone or email. A written report shall then be submitted within 10 days, describing measures that were taken to lower the pond freeboard and prevent wastewater spills. In addition, the Discharger shall conduct daily freeboard measurements and include the information in the monthly monitoring reports.
2. The Discharger shall **immediately** begin submitting complete, on-time monitoring reports as required by the 4 April 2006 Revised MRP. Monthly monitoring reports must be submitted by the 1st day of the second month following the sampling, and quarterly monitoring reports by the 1st day of the second month after the quarter. Annual monitoring reports must be submitted by 1 February of each year. The reports shall contain the results of all monitoring required by the Revised MRP.

3. The Discharger shall **immediately** begin conducting the quarterly groundwater sampling in accordance with the 30 April 2008 *Groundwater Sampling and Analysis Plan*. If the Discharger chooses to continue the collection of the groundwater samples using its own staff, then a California Registered Engineer or Professional Geologist must re-train the staff. A signed statement by the registered professional certifying the training must be included in each of the quarterly groundwater monitoring reports required by the revised MRP.
4. By **1 August 2012**, the Discharger shall submit a *Groundwater Monitoring Well Disinfection and Development Workplan* that shall describe how the three monitoring wells will be disinfected and re-developed. The purpose of this work is to remove any contamination that may be present due to poor sampling techniques.
5. By **1 September 2012**, the Discharger shall submit a *Revenue Plan* that describes the costs associated with implementation of all tasks in this Order. Should the *Revenue Plan* show that there are inadequate funds to complete all the tasks in this Order, then the Discharger must include an implementation schedule that shows how the Discharger will obtain the funds to complete the tasks.
6. By **1 October 2012**, the Discharger shall submit a *Groundwater Monitoring Well Disinfection and Development Report* that describes how the three monitoring wells were disinfected and re-developed.
7. **Beginning 1 October 2012, and continuing quarterly until this Order is rescinded**, the Discharger shall submit quarterly progress reports describing the work completed to date to comply with each of the requirements described below. The Quarterly Progress Reports shall be submitted by the **1st day of the month following the end of the quarter** (e.g. 1 January, 1 April, 1 July, and 1 October).
8. By **1 October 2012**, the Discharger shall submit a revised *Capacity Improvements Workplan* that provides specific details to implement the improvements described in Finding No. 11 of this Order, and any other improvements needed to increase in the overall storage and disposal capacity to accommodate design average dry weather flows, design long-term I/I flows, and direct precipitation during the 100-year, 365-day precipitation event while maintaining at least two feet of freeboard. The *Workplan* shall reference the storage, treatment, and disposal capacity needs identified in the 13 September 2011 *Water Balance Report*.
9. By **1 October 2012**, the Discharger shall submit a *Dissolved Oxygen Compliance Report* that shall describe specific facility and/operational changes that have been or will be, implemented to bring the discharge into compliance with the dissolved oxygen limits in the WDRs.

10. By **1 October 2013**, the Discharger shall submit a *Groundwater Monitoring Well Evaluation Report* that evaluates the total coliform levels in the wells, both before and after the wells were disinfected and re-developed. If the concentrations still show that groundwater is degraded, then the *Report* shall contain a proposal for facility improvements such that the Discharger will comply with Provision D.1 of WDRs Order 94-099.
11. By **1 October 2013**, the Discharger shall submit a *Capacity Improvements Completion Report* that describes the work completed per the approved *Capacity Improvement Workplan*. The report shall include a water balance which shows that the storage ponds provide sufficient capacity to maintain two feet of freeboard on a month-by-month basis for a 100-year, 365-day precipitation event. The water balance shall include monthly evaporation, precipitation, and percolation rates, and shall identify contributions from major sources to monthly discharge volumes such as groundwater/subsurface inflows, storm water run-on, and inflow and infiltration from the collection system. Rainfall shall be based on the 100-year, 365-day precipitation event.
12. In addition to the above, the Discharger shall comply with WDRs Order 94-099 and all applicable provisions of the 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.

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."

If the Discharger is unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Executive Officer, the Discharger may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and prior to the compliance date. An extension may be granted by revision of this Order or by a letter from the Executive Officer.

If 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

administrative civil liability up to \$10,000 per violation per day, pursuant to the Water Code sections 13268, 13350, and/or 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

This Order is effective upon the date of signature.

Original signed by

PAMELA C. CREEDON, Executive Officer

3 July 2012

(Date)