

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ACL ORDER NO. R5-2004-0064

ADMINISTRATIVE CIVIL LIABILITY ORDER

IN THE MATTER OF  
WEIMAR INSTITUTE, INC.  
WASTEWATER TREATMENT PLANT  
PLACER COUNTY

This order for Administrative Civil Liability (hereafter Order) is issued to Weimar Institute, Inc. (hereafter known as "Discharger") based on a finding of failure to submit technical reports pursuant to California Water Code (CWC) Section 13267 and based on provisions of CWC Section 13267(b)(1) and Sections 13268(a) and (b), which authorize the imposition of an Administrative Civil Liability.

The California Regional Water Quality Control Board, Central Valley Region, (Regional Board) finds, with respect to the Discharger's acts, or failure to act, the following:

1. Weimar Institute, Inc. owns and operates a wastewater treatment and disposal facility at 20601 Paoli Lane in Weimar. The facility and associated disposal fields are in Section 28, T14N, R9E, MDB&M.
2. The wastewater treatment and disposal facility covers approximately ten acres and includes an Imhoff Tank, trickling filter, three oxidation ponds, and subsurface disposal field using approximately 3,450 feet of leach lines.
3. Waste Discharge Requirements (WDRs) Order No. 95-179, adopted by the Regional Board on 23 June 1995, regulate the treatment, storage, and disposal of process wastewater at the facility.

**HISTORY OF VIOLATIONS**

4. On 13 June 2002, staff performed an inspection of the facility and was informed by the Discharger that wastewater had surfaced within the leachfield area and was probably the result of a leachline failure.
5. On 26 July 2002, staff issued a Notice of Violation (NOV) for the non-submittal of the February 2001 through July 2002 monthly self monitoring reports required by the WDRs. In addition, the NOV required that the Discharger submit a technical report providing an explanation of the failed leachline and describing actions taken to correct the leachline failure.
6. On 9 September 2002, staff received the July and August 2002 monthly self-monitoring reports, and an explanation that the other missing monitoring reports were never submitted to the Regional Board. In addition, the Discharger indicated that the leachline had been capped off so it would not receive any wastewater.
7. On 26 March 2003, the Executive Officer issued a CWC Section 13267 Order requiring that the Discharger submit a technical report that addressed (a) the reason for decommissioning the leachline, (b) the hydraulic loading to the leachline system, (c) an evaluation of the depth to

groundwater, (d) a water balance for the entire treatment, storage, and disposal system, (e) measures taken to prevent future leachline failures, (f) operation and maintenance procedures, and (g) an evaluation of the wastewater treatment system. This report was due by 15 June 2003.

8. On 2 June 2003, Weimar Institute submitted a letter requesting an extension for the submittal of the technical report to a time when its financial situation was more favorable.
9. During a site inspection conducted on 15 July 2003, staff observed abundant vegetation on the surface of the ponds, and the Discharger indicated that the sludge in pond No. 1 had been removed and buried on-site. In addition, staff's review of the October 2002 to March 2003 monthly monitoring reports found that the average influent flow rate ranged from 10,788 to 74,700 gpd, which greatly exceeded the average flow of 12,800 gpd as stated in the WDRs.
10. On 30 July 2003, staff issued a NOV to the Discharger for violating (a) Sludge Disposal Specification No. C.1 due to the burial of sludge on-site and (b) Discharge Specification No. B.5 for the abundant vegetation observed on the surface of the ponds. In addition, the NOV was issued for the non-submittal of monthly self-monitoring reports as of March 2003. The NOV required the Discharger to provide an explanation of the missing monitoring reports, submit future monitoring reports in compliance with the WDRs, submit a Sludge Management Plan, and submit a report that documenting the removal of vegetation within the ponds.
11. Due to the material change in the volume of wastewater generated at the facility, on 30 July 2003, staff requested that the Discharger submit a Report of Waste Discharge (RWD). The RWD was to include a technical report prepared by a California Registered Engineer and was to be submitted by 1 October 2003.
12. On 10 September 2003, the Discharger submitted a Sludge Management Plan describing how sludge will be removed from ponds, dried, and transported to a landfill for appropriate disposal. In addition, the Discharger submitted the missing monthly self-monitoring reports for the months of March 2003 to August 2003.
13. On 3 October 2003, the Discharger submitted a request for extension for the technical report required by the 26 March 2003 CWC Section 13267 Order. The technical report was due by 15 June 2003; the Discharger requested an extension to 15 January 2004. The report was subsequently received on 15 December 2003, and verified that the facility's flows are well in excess of those permitted by the WDRs.
14. On 16 December 2003, the Discharger notified staff that it had discovered a wastewater spill the prior day. The spill was estimated at approximately 65,000 gallons of raw sewage, and was the result of a blockage which caused sewage to flow out of a previously-unknown hole in the main collection system pipe. The Discharger indicated that an unknown portion of wastewater entered Coyote Creek.
15. During an inspection conducted on 18 December 2003, staff noted that the pipeline had been repaired. The Discharger had undertaken some efforts to clean up the wastewater spill; however,

due to equipment problems, the cleanup had not yet been completed. Staff determined that significantly more than 65,000 gallons may have been lost, as the Discharger only inspects its treatment plant once per week. Staff discussed with the Discharger the need to inspect on a more frequent basis or to install remote sensors. Finally, the Discharger indicated that it had not yet signed a contract with an engineering firm to complete the RWD.

16. On 22 December 2003, the Executive Officer issued a CWC Section 13267 Order requiring that the RWD be submitted by 31 January 2004.
17. On 28 January 2004, staff issued a NOV for the raw sewage spill and required the Discharger to implement its proposed remediation, namely, to conduct daily inspections of the sewer system. The NOV also reminded the Discharger that the RWD was to be submitted by 31 January 2004.
18. The October 2002 through January 2004 monthly self-monitoring reports show that the Discharger has exceeded the average flow rate of 12,800 gpd as described in the WDRs. The December 2003 engineer's report states that flows range from 16,600 gpd in the dry season to 34,800 gpd in the wet season. The Discharger has not shown that the existing storage ponds and leachfields are large enough to accept this increased flow.
19. The Discharger has failed to submit the RWD as required by the 22 December 2003 CWC Section 13267 Order. This RWD is necessary due to the leachfield failure observed during the July 2003 site inspection, the December 2003 sewage spill, and the increase in influent wastewater flows. The RWD must evaluate whether improvements to the wastewater collection system are necessary to prevent future spills and must evaluate whether improvements to the entire wastewater system are necessary due to the increased flows.

### **REGULATORY CONSIDERATIONS**

20. By the acts and omissions cited above, the Discharger has violated Provisions of Section 13267 (b)(1) of the California Water Code, which reads, in part, as follows: "...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...."
21. Water Code Section 13268 (a) states: "Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b)."
22. Water Code Section 13268(b)(1) states: "Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an

amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.”

23. Water Code Section 13327 states: “In determining the amount of civil liability, the regional board ... shall take into consideration the nature, circumstance, 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 ability to continue in 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 as justice may require.”
24. Water Code Section 13268(b)(1) authorizes Administrative Civil Liability not exceeding one thousand dollars (\$1,000) for each day of failure to submit technical reports as required by subdivision (b) of Section 13267. The Discharger has failed to submit the RWD that was due on 31 January 2004.
25. As of 4 June 2004, the RWD is 125 days late.
26. The maximum liability for the nonsubmittal of the RWD is one hundred and twenty five thousand dollars (\$125,000). No minimum liability is required to be imposed under Section 13268(b)(1).
27. The Regional Board determined, with respect to the factors in Finding No. 23, the following:

The nature of the violation is that the Discharger was required by a 30 July 2003 staff letter to submit a Report of Waste Discharge, but failed to do so. The Discharger subsequently received written and verbal warnings regarding the need to submit the RWD. When it was still not submitted, the Discharger was ordered, pursuant to CWC Section 13267, to submit the RWD by 31 January 2004. However, staff have still not received the RWD. The circumstances are such that the Discharger was aware of the necessity to provide the required RWD, but failed to do so.

The extent of the violation is that the Discharger was required, pursuant to CWC Section 13267, to submit a Report of Waste Discharge. As of 4 June 2004, the RWD will be a total of 125 days late.

The gravity of the violation is that failure to submit a complete RWD has prevented staff from determining whether the existing treatment, storage, and disposal system is capable of handling the increased wastewater flows. Lack of a RWD has prevented staff from updating the WDRs to require adequate inspections and monitoring of the wastewater system to prevent future raw sewage spills. Because of the increased flows, the Discharger is in violation of its WDRs and will remain in violation until it submits a RWD and staff prepare updated WDRs.

With respect to the Discharger, it has not been demonstrated that there is an inability to pay the liability and continue operating.

The Discharger is responsible for submittal of the RWD and is culpable for the violations cited. The Discharger received ample opportunity to submit the RWD and was informed by staff regarding the

seriousness of the matter and the potential that enforcement action could be taken, should noncompliance continue.

The Discharger received an unfair economic advantage, relative to other dischargers, by refusing to complete the RWD in a timely fashion. Staff estimates that the Discharger accrued at least \$1,000 in savings because of noncompliance.

Staff expended approximately 60 hours, or \$4,800, in generation of the ACL Complaint. It is estimated that staff will spend an additional 60 hours (an additional \$4,800) to prepare this ACL Order and to prepare for the Board hearing.

The 65,000 gallon raw sewage spill that occurred on 15 December 2003 in which an unknown quantity had spilled into a nearby creek could have been prevented if the Discharger had hired a California Registered Engineer to prepare the RWD and evaluate the condition of the wastewater collection system.

28. A \$15,000 Administrative Civil Liability is appropriate based on the determinations in Findings No. 23 through 27.
29. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et. seq.), in accordance with Section 15321 (a)(2), Title 14, of the California Code of Regulations.
30. 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.swrcb.ca.gov/water\\_laws/cawtrcde/wqpetition\\_instr.html](http://www.swrcb.ca.gov/water_laws/cawtrcde/wqpetition_instr.html) and will also be provided upon request.

IT IS HEREBY ORDERED that the Regional Water Quality Control Board, Central Valley Region, imposes upon Weimar Institute, Inc. administrative civil liability in the amount of \$15,000 in accordance with California Water Code Section 13268 and Section 13323. Payment shall be made within 30 days of the date of this Order, and shall be in the form of a certified check made payable to the *State Water Resources Control Board Cleanup and Abatement Account*. The check shall have written upon it the number of this Order.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 4 June 2004.

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THOMAS R. PINKOS, Executive Officer