

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ACL COMPLAINT NO. R5-2007-0503

ADMINISTRATIVE CIVIL LIABILITY  
IN THE MATTER OF

RANCHO MURIETA COMMUNITY SERVICES DISTRICT  
RANCHO MURIETA WASTEWATER TREATMENT FACILITY  
SACRAMENTO COUNTY

This Administrative Civil Liability Complaint (hereafter Complaint) is issued to Rancho Murieta Community Services District (hereafter known as "RMCS D" or "Discharger") based on failure to comply with Waste Discharge Requirements (WDRs) Order No. 5-01-124 and Cease and Desist Order (CDO) No. R5-2006-0001. This Complaint is issued pursuant to California Water Code (CWC) Sections 13350 and 13385, which authorize the imposition of administrative civil liability.

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

1. Waste Discharge Requirements Order No. 5-01-124, which was adopted by the Regional Water Board on 11 May 2001, prescribes requirements for the Rancho Murieta Community Services District wastewater treatment facility (WWTF) and water reclamation at two golf courses operated by Rancho Murieta Country Club (RMCC). The WDRs set forth separate discharge requirements and specifications for each of the co-dischargers. RMCS D is solely responsible for collection and treatment of the wastewater, and RMCC is solely responsible for all systems and activities related to use of the reclaimed water for golf course irrigation.
2. The RMCS D WWTF serves the Rancho Murieta community, and comprises five clay-lined wastewater treatment ponds and two clay-lined effluent storage reservoirs covering approximately 50 acres. The WWTF relies solely on reclamation at the golf courses to dispose of all treated wastewater.
3. All wastewater receives Title 22 tertiary treatment and disinfection prior to reclamation at the golf courses. During the golf course irrigation season, tertiary disinfected wastewater is pumped to Bass Lake, Lake 10, Lake 11, Lake 16, and Lake 17 at the RMCC golf courses to serve the irrigation system.
4. During the rainy season, wastewater receives secondary treatment and is stored in two effluent storage reservoirs at the WWTF until the next golf course irrigation season.
5. The secondary treatment system capacity is 1.55 million gallons per day (mgd) average daily dry weather flow and 2.0 mgd peak wet weather flow. The tertiary treatment system capacity is 3.0 mgd.

6. WDRs Order No. 5-01-124 contains an influent flow limit of 1.5 mgd based solely on treatment capacity. However, the design storage and disposal capacity of the WWTF is approximately 0.67 mgd. The current storage and disposal capacity is significantly lower than the design capacity because RMCS D stored excess secondary effluent generated in 2003, and has not been able to dispose of that excess wastewater.
7. On 26 January 2006, the Regional Water Board adopted CDO Order No. R5-2006-0001. Pursuant to Sections 13301 and 13267 of the California Water Code, Order No. R5-2006-0001 sets forth enforceable schedules for both RMCS D and RMCC to address the following issues (the responsible party is parenthetically noted):
  - a. Continued overflow of reclaimed water from the golf course storage lakes to surface water during the rainy season (RMCC);
  - b. Inadequate wastewater storage and disposal capacity at the WWTF (RMCS D);
  - c. Complaints regarding odors emanating from the golf course storage lakes and from the golf course irrigation system (RMCC); and
  - d. Potential groundwater degradation at the WWTF (RMCS D).

RMCS D has failed to comply with its portion of the CDO and has discharged waste to surface water in violation of the WDRs.

#### **VIOLATIONS OF CEASE AND DESIST ORDER NO. R5-2006-0001**

8. Item 5 of CDO No. R5-2006-0001 states:  
*“Effective immediately and continuing unless and until the Regional Board adopts revised Waste Discharge Requirements or the Executive Officer approves otherwise pursuant to Item 6, the monthly average daily dry weather influent flow to the WWTF shall not exceed 0.52 mgd and the total annual influent flow shall not exceed 198 million gallons per year (as measured from 1 July to 30 June each year).”*
9. Based on the Discharger’s monthly monitoring reports, the total annual influent flow to the RMCS D wastewater treatment facility was 199.2 million gallons between 1 July 2005 and 30 June 2006, 1.2 million gallons greater than the yearly total allowed by the CDO.

#### **VIOLATIONS OF THE CDO AND WDRs**

10. Item 7 of CDO No. R5-2006-0001 states:  
*“Effective immediately, RMCS D shall ensure continuous compliance with Discharge Prohibition A.1 and Discharge Specification B.11 of WDRs Order No. 5-01-124.”*
11. Discharge Prohibition A.1 of WDRs Order No. 5-01-124 states:  
*“Discharge of wastes to surface waters or surface water drainage courses is prohibited.”*

12. Discharge Specification B.11 of WDRs Order No. 5-01-124 states:  
*“The freeboard in all ponds shall never be less than two feet as measured vertically from the water surface to the lowest point of overflow.”*
13. Item 6 of CDO No. R5-2006-0001 also requires that RMCS D submit an *Interim Wastewater Containment Compliance Plan* detailing specific actions that will be taken to ensure continuous compliance with Discharge Prohibition A.1 and Discharge Specification B.11 of the WDRs.
14. On 15 March 2006, RMCS D submitted the *Interim Wastewater Containment Compliance Plan*. The report stated that it was likely that RMCS D would be in violation of Discharge Specification B.11 soon, and that sprinklers had been installed around the perimeter of the largest effluent storage reservoir to enhance evaporation. The report identified the following additional measures that might be taken to ensure compliance with the WDRs and CDO:
  - a. Install aeration fountains at the WWTF to further enhance evaporation;
  - b. Increase spray irrigation at the WWTF site;
  - c. Add a new reclamation site (pending completion of environmental review and permitting);
  - d. Reduce sewer inflow/infiltration;
  - e. Implement a water conservation program; and
  - f. Haul excess wastewater off-site for disposal.
15. On 7 April 2006, the *Interim Wastewater Containment Compliance Plan* was approved, with the exception of increasing spray irrigation at the WWTF site. This measure was not approved because the areas proposed for irrigation are not part of the reclamation areas permitted in the WDRs.
16. On 6 April 2006, RMCS D informed Regional Water Board staff that the effluent storage reservoirs were filling quickly and requested permission to discharge tertiary-treated, disinfected, dechlorinated wastewater directly to the Cosumnes River at a rate of up to 2.0 mgd for not more than 30 days.
17. On 7 April 2006, staff responded to RMCS D’s request for permission to discharge treated wastewater to surface waters, and informed RMCS D that staff could not authorize such a discharge because it would be a violation of the WDRs and CDO. RMCS D was notified that it must take all measures to prevent such a discharge.
18. On 11 April 2006, RMCS D notified Regional Water Board staff and the Office of Emergency Services (OES) that RMCS D had begun discharging tertiary-treated, disinfected effluent to Bass Lake at a rate of 1,300 gallons per minute (approximately 1.9 mgd) on 10 April 2006. According to the Discharger’s final spill report, the discharge

continued at approximately the same rate through 26 April 2006<sup>1</sup>. With the exception of 10 April 2006, the discharge was dechlorinated prior to discharge.

19. Based on the April 2006 monthly monitoring report, Bass Lake was already at capacity and/or spilling to the Cosumnes River prior to 10 April 2006. However, the Discharger's final spill report states that the overflow from Bass Lake did not reach the Cosumnes River until 18 April 2006.
20. Based on the April 2006 monthly monitoring report and the final spill report, at least 14.43 million gallons of tertiary-treated, disinfected wastewater was delivered to Bass Lake during the spill period. Based on freeboard data in the Discharger's monthly monitoring reports, Bass Lake was at capacity or spilling to the Cosumnes River when the discharge began, and continued to spill until sometime after 2 May 2006. By 10 May 2006, Bass Lake reportedly had 0.33 feet of freeboard.
21. Additionally, according to monthly monitoring reports submitted by RMCS D, between 14 March and 12 July 2006, Effluent Storage Reservoir No. 1 had less than two feet of freeboard. Likewise, between 28 March and 7 June 2006, Effluent Storage Reservoir No. 2 had less than two feet of freeboard. These violations of the CDO and Discharge Specification B.11 comprise a total of 191 days of violations.
22. On 7 December 2006, staff issued a Notice of Violation to RMCS D for the violations described above, as well as violations of the Monitoring and Reporting Program. The NOV required that RMCS D submit revised monthly monitoring reports for the months of January through September 2006 and explain why the daily tertiary effluent totals reported in the April 2006 monthly monitoring report and the final spill report differ.
23. On 15 January 2007, the Discharger responded to the Notice of Violation, but did not submit revised monthly monitoring reports as required. The Discharger's response included revised freeboard values for the two effluent storage reservoirs. However, the revised freeboard data do not refute staff's assessment of the period of freeboard violations. The discharger also stated that, due to errors in preparation of the April 2006 monthly monitoring report, the volume of tertiary effluent discharged to Bass Lake during the spill period was overestimated because RMCS D staff did not subtract the volume of tertiary effluent used for the spray fountains and filter backwash that was rerouted to the primary wastewater treatment pond. The letter states that approximately 13 million gallons of tertiary effluent was discharged to Bass Lake over eleven days beginning on 14 April 2007, and that the overflow did not reach the Cosumnes River until 18 April 2006. Based on a rough calculation using overflow channel geometry and estimated surface flow velocity, the Discharger stated that the daily discharge rate to the river ranged from 1.7 to 2.7 mgd.

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<sup>1</sup> There is a discrepancy between the daily tertiary effluent totals reported in the April 2006 Monthly Monitoring Report and the final spill report. Volumes reported in the monthly monitoring report were initially used to calculate the volume discharged.

24. In summary, the Discharger violated the total annual influent flow limitation set forth in the CDO one time, violated Discharge Specification B.11 for 191 days, and violated Discharge Prohibition A.1 for 15 days. Approximately 13 million gallons of tertiary treated effluent were discharged to the Cosumnes River.

### **REGULATORY CONSIDERATIONS**

25. As described in the above Findings, the Discharger has violated Waste Discharge Requirements Order No. 5-01-124, and Cease and Desist Order No. R5-2006-0001 by violating the flow limitations imposed by the CDO, by discharging waste to surface waters, and by failing to maintain the required freeboard in its effluent storage reservoirs.

#### **With Respect to Discharges of Waste to Surface Waters:**

26. Section 301 of the Clean Water Act and Section 13376 of the CWC prohibit the discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit.

27. 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.”*

28. WDRs Order No. 5-01-124 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.

29. 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.”*

30. For discharging waste to surface waters in violation of the WDRs and CDO, 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, the Discharger estimates that a total of 13 million gallons of treated wastewater were discharged to the Cosumnes River via Bass Lake over a total of 15 days. Of this, a total of 12.999 million gallons were discharged in excess of 1,000 gallons per spill event. Therefore, the maximum administrative civil liability is \$150,000 (15 days times \$10,000 per day) plus \$129,990,000 (13 million gallons minus 1,000 gallons per spill event times \$10 per gallon), for a total maximum liability of \$130,140,000.
31. 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.”*
32. Pursuant to CWC Section 13385(e), the minimum administrative civil liability is equivalent to the economic benefit accrued by the Discharger for not implementing management and physical improvements necessary to prevent the discharges. The 13 million-gallon discharge was the result of the Discharger’s failure to provide adequate storage and disposal capacity, and the Discharger’s failure to implement its own contingency plan. It is estimated that the Discharger has saved at least \$30,000 by not taking the actions required to prevent the violations described in this Complaint. This savings is based on a cost estimate of approximately \$6,000 per month for five months for rental and installation of temporary irrigation systems to allow discharge to land at a neighboring cattle pasture.

**With Respect to Other Violations of the CDO:**

33. For violations of the CDO that do not involve violation of CWC Section 13376, the Regional Water Board may assess administrative civil liability based on CWC Section 13350.

34. CWC Section 13350(e) states:

*“The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both.”*

35. CWC Section 13350(e)(1) states:

*“The civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs.”*

36. CWC Section 13350(e)(1)(B) states:

*“When there is no discharge, but an order issued by the regional board is violated, except as provided in subdivision (f), the civil liability shall be not less than one hundred dollars (\$100) for each day in which the violation occurs.”*

37. For violations of the flow limitations set forth in the CDO and violations of the freeboard requirement set forth in the WDRs, the maximum administrative civil liability which can be imposed by the Regional Water Board under CWC Section 13350 is \$5,000 per day. The minimum civil liability under CWC Section 13350 is \$100 per day. As stated in the Findings, the Discharger violated the flow limitation one time, and also violated the freeboard requirements for a total of 191 days. Therefore, the maximum administrative civil liability is \$960,000 (192 days times \$5,000 per day). The minimum administrative civil liability is \$19,200 (192 days times \$100 per day).

38. Considering the allowable administrative civil liabilities under both CWC Section 13385 and CWC Section 13350, the total minimum and maximum administrative civil liabilities are as follows:

Maximum: \$130,140,000 + \$960,000 = \$131,100,000

Minimum: \$30,000 + \$19,200 = \$49,200.

39. Issuance of this Complaint 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.

**RANCHO MURIETA COMMUNITY SERVICES DISTRICT IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Regional Water Board proposes that the Discharger be assessed an administrative civil liability in the amount of \$200,000 (two hundred thousand dollars), payable as follows: \$100,000 (one hundred thousand dollars) payable to the *State Water Pollution Cleanup and Abatement Account* and the remaining \$100,000 (one hundred thousand dollars) payable to the *Waste Discharge Permit Fund*. The amount of the liability proposed is based upon a review of the factors set forth in CWC Sections

13350 and 13385, and includes consideration of the economic benefit or savings resulting from the violations.

2. A hearing shall be held on **3/4 May 2007** unless the Discharger agrees to waive the hearing and pay the proposed civil liability in full.
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.
4. In lieu of a hearing, the Discharger may waive the right to a hearing. If you wish to waive the right to a hearing, sign the enclosed waiver and return it with payment as provided in Paragraph 1, above, to the Regional Water Board's office at 11020 Sun Center Drive, Suite #200, Rancho Cordova, CA 95670, by **25 March 2007**.

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PAMELA C. CREEDON, Executive Officer

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22 February 2007

(Date)

ALO:2/23/07

**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 Rancho Murieta Community Services District (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2007-0503 (hereinafter the "Complaint");
2. I am informed of the right provided by Water Code section 13323, subdivision (b), to a hearing within ninety (90) days of issuance 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 issuance of the Complaint; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of two hundred thousand dollars (\$200,000) by check, as follows: \$100,000 (one hundred thousand dollars) payable to the *State Water Pollution Cleanup and Abatement Account* and the remaining \$100,000 (one hundred thousand dollars) payable to the *Waste Discharge Permit Fund*. Both checks will contain a reference to "ACL Complaint No. R5-2007-0503".
5. I understand the payment of the above amount constitutes a settlement of the Complaint that will not become final until after a public comment period.
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.

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(Name)

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(Title)

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(Date)