

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ACL COMPLAINT R5-2009-0575

ADMINISTRATIVE CIVIL LIABILITY  
IN THE MATTER OF  
CITY OF ISLETON  
WASTEWATER TREATMENT FACILITY  
SACRAMENTO COUNTY

This Complaint is issued to the City of Isleton (hereafter Discharger) pursuant to California Water Code (CWC) sections 13350, 13268 and 13385, which authorize the imposition of Administrative Civil Liability, and CWC section 13323, which authorizes the Executive Officer to issue this Complaint. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order 90-186, and subsequent Orders issued to compel compliance with the WDRs.

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

**Background**

1. The Discharger owns and operates the wastewater collection, treatment, and disposal system that serves the City of Isleton. The Discharger receives up to 117,000 gallons per day of domestic and commercial wastewater from the community. The Discharger also has a contractual agreement to accept 60,000 gallons of wastewater per day from the Oxbow Marina Recreational Facility.
2. On 22 June 1990, the Central Valley Water Board issued Waste Discharge Requirements (WDRs) Order 90-186. The WDRs prescribe requirements for the discharge of domestic wastewater from the treatment system owned and operated by the Discharger. The WDRs contain, among other items, prohibitions, effluent limitations, and monitoring and reporting requirements. A revised Monitoring and Reporting Program (MRP) was issued by the Executive Officer on 10 October 2002 to update the outdated version included with the WDRs. The revised MRP includes requirements for continuous influent flow monitoring using a calibrated metering device.
3. The collection system consists of approximately 16,550 lineal feet of gravity sewer lines. The majority of the collection system was installed around 1923 and therefore is at least 85 years old. A 1997 *Wastewater Collection System Cleaning and Inspection Report* indicated that the collection system had serious inflow and infiltration (I/I) problems. The collection system conveys wastewater from the City of Isleton to a lift station, which pumps the wastewater approximately 4,335 feet through a 10-inch, high density polyethylene (HDPE) force main to an aeration pond. The lift station and force main were installed in 1975. The force main is buried, except for a small section approximately 20 feet long that crosses a reclamation ditch.

4. From the aeration pond, wastewater gravity flows into two stabilization ponds totaling approximately seven acres in size. These ponds are operated in series. Effluent from the stabilization ponds is then discharged via gravity to six evaporation/percolation ponds totaling 24.2 acres in size.

### **Chronology of Previous Enforcement**

5. On 3 May 1996, the Board issued CDO 96-095 to address wastewater overflows, which occurred due to the lack of capacity in the wastewater ponds. The CDO required the Discharger to prepare technical reports and implement improvements and modifications to the collection system, wastewater treatment plant, lift station and force main to ensure compliance with the WDRs. Full compliance with the CDO was to be achieved by 1 January 1998; however, the Discharger did not comply.
6. On 7 January 2002, the Discharger observed that the wastewater level in the aeration pond had dropped significantly. Upon investigation, the City found that the force main crossing for the reclamation ditch, located at the southern end of the percolation ponds, was broken, and that raw sewage was being discharged into the ditch. Based on the Discharger's observation that the aeration pond water level was down by two inches, the amount of wastewater lost from the aeration lagoon system was approximately 90,000 gallons. Although the Discharger recovered approximately 30,000 gallons, the remaining wastewater was discharged to Georgiana Slough via the reclamation pump station.
7. Because the Discharger was unable to meet the compliance date for completing the improvements as required by the CDO, the Acting Executive Officer issued a Time Schedule Order (TSO) pursuant to CWC section 13308 on 9 August 2002. The TSO required the Discharger to submit:
  - A Groundwater Characterization Workplan,
  - A Sewer Lift Station Safeguard Disposal Plan,
  - A Sludge Disposal Plan,
  - A Collection System Engineering Evaluation and Corrective Action Plan,
  - A Groundwater Well Installation Report,
  - A Construction Inspection Report,
  - A Revenue Plan, and
  - Quarterly Progress Reports.

In addition, the TSO required the Discharger to comply with revised MRP 90-186. The TSO has not yet been rescinded.

8. On 19 October 2007, following a facility inspection and meeting with the Discharger, the Executive Officer issued an Order pursuant to CWC section 13267 to address certain

problems identified during the inspection and to require submittal of certain technical reports. In summary, the Order required the Discharger to submit:

- A detailed plan and schedule to repair the percolation pond berms,
- A report certifying that all equipment necessary to conduct freeboard monitoring in compliance with the revised MRP had been installed,
- A report certifying that the Oxbow Marina influent flow meter had been repaired and/or replaced and was calibrated, and
- A Capacity Analysis Conceptual Plan for the WWTF to address expected growth over the next four years.

As of the date of this ACL Complaint, the Discharger has completed all of the tasks required by the Section 13267 Order, except for submitting the Capacity Analysis Conceptual Plan, which was due by 28 February 2008. Based on conversations with the Discharger's consultant, Board staff understands that the Capacity Analysis Conceptual Plan has not been submitted because of influent flow meter problems.

### **Chronology of Recent Violations**

9. On 23 October 2008, the Discharger notified Board staff that it had discovered a raw sewage spill from the force main. The spill occurred in a cornfield. An unknown volume of the spill flowed to a drainage ditch and then to Georgiana Slough via a pumping station. The spill resulted from a crack measuring approximately 18-inches long in a buried section of the force main. The Discharger estimated that the volume of the spill may have been as much as 2,000,000 gallons because the leak in the force main may have begun as early as 15 September 2008 (39 days prior to its discovery), based on a reduction of influent flows. Following discovery of the spill, the drainage ditch was blocked with soil to prevent further migration of the raw sewage. The leaking section of pipe was repaired on 24 October 2008. On 3 March 2009, Board staff issued a Notice of Violation (NOV) for the spill. The NOV required the Discharger to submit a technical report by 1 May 2009 describing corrective actions to be taken to prevent future spills. In addition, the NOV required the Discharger to provide documentation showing that the City of Isleton's influent flow meter had been repaired or replaced.
10. On 13 April 2009, the Discharger notified Board staff that it had discovered another raw sewage spill from the force main. The spill resulted from a leak in a cracked section of the buried force main approximately 20 to 30 feet southeast of the drainage ditch near the wastewater ponds. The Discharger stated that an unknown volume of raw sewage entered the drainage ditch and then flowed to Georgiana Slough. The estimated volume of the spill was not determined because the Discharger's influent flow meter was not operational. The Discharger stated that within approximately 90 minutes following discovery of the spill, the pumping plant was shut down and any sewage remaining of the ground was removed via a vacuum truck and transported to the wastewater ponds. Repairs to the cracked section of pipeline were completed on 14 April 2009. Prior to discovery of the spill, the Discharger had been walking this

portion of force main several times per month inspecting for potential leaks. On 19 June 2009, Board staff issued an NOV for the spill which required the Discharger to provide a workplan by 1 August 2009 that described proposed measures (e.g., video surveying, etc.) that would be taken to provide an assessment of the integrity of the influent pipeline. In addition, the NOV required the Discharger to provide documentation showing that the City of Isleton's influent flow meter had been repaired or replaced by 1 August 2009. As of early October 2009, the Discharger has purchased a new flow meter but has not permanently installed it.

### **Violations under CWC section 13350**

11. Administrative civil liability may be imposed for violations of WDRs Order 90-186 pursuant to CWC section 13350(a) which states, in relevant part,
  - (a) Any person who ... in violation of any waste discharge requirement ... or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state... shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).
12. CWC section 13350(e) states, in relevant part,
  - (e) The state board or a regional board may impose civil liability administratively ... either on a daily basis or on a per gallon basis, but not both.
    - (1) The civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs.
    - (2) The civil liability on a per gallon basis may not exceed ten dollars (\$10) for each gallon of waste discharged.
13. Provision No. C.1 of WDRs Order 90-186 states:

The Discharger shall comply with the attached Monitoring and Reporting Program.
14. The Discharger's revised Monitoring and Reporting Program (MRP) required that Discharger conduct continuous influent flow monitoring for the volume of sewage discharged to the wastewater ponds.
15. Since at least 1 November 2008 through 1 October 2009 (a period of 334 days), the City of Isleton's influent flow meter has not been functioning, which is a violation of the revised MRP, and hence of Provision C.1 of the WDRs. If the meter had been functioning, the spill that was discovered on 13 April 2009 might have been discovered sooner, and the spill volume may have been reduced. Because the flow meter was not operating, the volume of raw sewage that discharged from the force main was not determined. In addition, because the flow meter is not operating, the Discharger has not submitted the Capacity Analysis Conceptual Plan that was due in February 2008.

16. **Maximum Civil Liability for Violations under CWC section 13350:** Pursuant to CWC section 13350, up to \$5,000 may be assessed per day per violation. Therefore, the maximum penalty for these 334 days of violations under section 13350 is **one million six hundred and seventy thousand dollars (\$1,670,000)**.

#### **Violations under CWC section 13268**

17. CWC section 13267(b)(1) states, in relevant part:  
... the regional board may require that any person who ... discharges ... 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
18. CWC section 13268(a)(1) states, in part:  
Any person failing or refusing to furnish technical...reports as required by subdivision (b) of Section 13267, ...is guilty of misdemeanor and may be liable civilly in accordance with subdivision (b).
19. CWC section 13268(b)(1) states, in part:  
Civil liability may be administratively imposed by a regional board... 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.
20. Although required by the 19 October 2007 CWC section 13267 Order (see Finding 8), the Discharger has failed to submit the Capacity Analysis Conceptual Plan which was due by 28 February 2008.
21. **Maximum Civil Liability for Violations under CWC section 13268:** As of 1 October 2009, the Discharger is subject to penalties of \$1,000 per day for 580 days of not submitting the Capacity Analysis Conceptual Plan pursuant to CWC section 13267. Therefore, a maximum liability of **five hundred and eighty thousand dollars (\$580,000)** may be assessed pursuant to CWC section 13268.

#### **Violations under CWC section 13385**

22. CWC section 13385 states, in relevant part:  
(a) Any person who violates any of the following shall be liable civilly in accordance with this section:  
...  
(5) Any requirements of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act, as amended.  
...

(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 of 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) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

(e) 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. Discharge Prohibition A.1 of WDRs Order 90-186 states:

The direct discharge of wastes to surface waters or surface water drainage courses is prohibited.

24. Discharge Prohibition A.2 of WDRs Order 90-186 states:

The by-pass or overflow of untreated or partially treated waste is prohibited.

25. WDRs Order 90-186 does not authorize the discharge of waste to surface waters. Any unpermitted discharge of waste to surface waters is a violation of the Clean Water Act, section 301. CWC section 13385 authorizes the imposition of administrative civil liability for such violations.

26. Per CWC section 13385, civil liability administratively imposed by the Central Valley Water Board may not exceed \$10,000 per violation per day, plus \$10 per gallon for each gallon of waste discharged over 1,000 gallons. The Discharger spilled an estimated 2,000,000 gallons of raw sewage to surface waters over a period of 39 days in September and October 2008, and an unknown amount of raw sewage on 13 April 2009 (see Findings 9 and 10). For the 2,000,000 gallons spill, a total of at least 1,999,000 gallons were discharged in excess of 1,000 gallons per spill event. Therefore, at \$10 per gallon for discharges in excess of 1,000 gallon, and at \$10,000 per day for each day of discharge, the maximum liabilities are \$19,990,000 for the gallons spilled and \$400,000 for the 40 days of discharge. Taking these maximum liability amounts together, the total amount of penalties that may be assessed pursuant to section 13385 is **twenty million three hundred and ninety thousand dollars (\$20,390,000)**.

### Total Maximum Penalty

27. Added together, the total maximum penalties that could be assessed under CWC sections 13350, 13268, and 13385 (described in Findings 16, 21, and 26) is **twenty two million six hundred and forty thousand dollars (\$22,640,000)**.

### THE CITY OF ISLETON IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **four hundred and fifteen thousand dollars (\$415,000)**.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **27/28/29 January 2010**, unless any of the following occurs by **14 December 2009**:
  - a) The Discharger waives the hearing by completing the attached form (checking off the box next to Option #1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **four hundred and fifteen thousand dollars (\$415,000)**; or
  - b) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests to engage in settlement discussions by checking off the box next to Option #2 on the attached form, and returns it to the Central Valley Water Board along with a letter describing the issues to be discussed; or
  - c) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests a delay by checking off the box next to Option #3 on the attached form, and returns it to the Central Valley Water Board along with a letter describing the issues to be discussed.

Under Option #2, the Board's Prosecution Team will consider proposing a settlement agreement that would suspend a substantial portion of the penalties, should the Discharger agree to complete the tasks contained in Attachment A according to the proposed deadlines. These tasks are obligations that have been imposed by prior Orders issued by the Central Valley Water Board and are ongoing violations for which administrative civil liability is still accruing. This Complaint does not cut off liability for these violations, or in any way modify the original due dates; Attachment A is intended solely to facilitate settlement discussions.

The Board's Prosecution Team does not believe that all of the assessed penalties should be suspended. The violations that have occurred at the Discharger's facility warrant the payment of at least a portion of the charged administrative civil liability to the *State Water Pollution Cleanup and Abatement Account*.

3. If a hearing on this matter is held, the Central Valley 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.

If this matter proceeds to hearing, the Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.

Original signed by

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PAMELA C. CREEDON, Executive Officer

12 November 2009

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Date

wsw/gjc: 9 Nov-09

Attachment A: Proposed Suspended Liability Tasks

**ATTACHMENT A TO  
ADMISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0575**

**Task 1: Influent Flow Meter**

Requested due date: **15 January 2010**

Brief Description of the Task: The City of Isleton will install a working flow meter to measure influent wastewater flows from the City of Isleton. The meter shall be calibrated to industry standards.

Project Schedule and Deliverable: By **15 January 2010**, the City of Isleton shall submit a report documenting that the City of Isleton's influent flow meter has been installed, has been properly calibrated, and is measuring influent flows.

**Task 2: Capacity Analysis Report**

Requested Due date: **30 September 2010**

Brief Description of the Task: As required by a 19 October 2007 Water Code Section 13267 Order, the City of Isleton shall conduct a capacity analysis to show whether the Wastewater Treatment Facility has adequate treatment, storage, and disposal capacity for both current and projected 2015 influent flows.

Project Schedule and Deliverable: By **1 September 2010**, the City of Isleton will submit a Capacity Analysis Report prepared by a California-registered Professional Engineer and bearing the professional's signature and stamp. The capacity analysis shall clearly show whether the wastewater treatment facility has adequate treatment, storage, and disposal capacity for both current influent flows and for projected 2015 influent flows. If there is not enough capacity for projected 2015 flows, then the Capacity Analysis Report will contain a conceptual plan for treatment plant expansion to accommodate expected growth. Separate hydraulic capacity analyses (water balances) shall be prepared for the average rainfall year and the 100-year return period total annual precipitation. The water balances shall comply with the guidance document attached to the 19 October 2007 Water Code Section 13267 Order, and shall be based on the following:

- a. Influent flow monitoring data collected over the last five years;
- b. Reasonable projections of infiltration and inflow (I/I) based on actual flow monitoring data before and after the recently completed I/I correction program;
- c. A minimum of two feet of freeboard in each pond and effluent disposal area at all times;
- d. Historical local evaporation and evapotranspiration data (monthly average values);
- e. Local precipitation data with the 100-year return period annual total distributed monthly in accordance with mean monthly precipitation patterns;
- f. Effluent disposal area loading rates distributed monthly in accordance with expected seasonal variations; and
- g. Projected long-term percolation rates in the unlined ponds and effects of solids plugging.

**Task 3: Sewer Force Main Completion Report**

Requested Final due date: **30 September 2010**

CITY OF ISLETON  
WASTEWATER TREATMENT FACILITY  
SACRAMENTO COUNTY

Brief Description of the Task: The City of Isleton will design and install a sewer force-main to replace the existing 10-inch force main. The force main will measure approximately 4,400 feet long and extend from the wet well (headworks) to the evaporation ponds.

Project Schedule and Deliverable: Beginning **immediately** and continuing until the force main is replaced, the Discharger shall continue to walk the sewer force main five days per week inspecting for potential leaks. Inspection results must be documented in the monthly monitoring reports that are required by the WDRs.

By **1 December 2009**, the City of Isleton will submit a report showing that it has released bid documents for the project.

By **1 September 2010**, the City of Isleton will submit a report showing that the force main has been installed to industry standards and is being used to transport wastewater to the wastewater plant.

**Task 4: Quarterly Progress Reports**

**Beginning 1 February 2010**, and by the first day of the second month following each calendar quarter (**i.e., by 1 February, 1 May, 1 August, and 1 November each year**), the City of Isleton shall submit quarterly progress reports describing the work completed to date regarding each of the tasks described above.