

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ACL COMPLAINT NO. R5-2002-0517

ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF

O.C. CRITCHFIELD AND HARRY CRITCHFIELD
ROLL-IN MOBILEHOME PARK WASTEWATER SYSTEM
TUOLUMNE COUNTY

This Administrative Civil Liability Complaint (hereafter Complaint) is issued to O.C. Critchfield and Harry Critchfield (hereafter known jointly as "Discharger") based on a finding of failure to submit reports pursuant to California Water Code Section 13267 and based on Provisions of the California Water Code Section 13267(b)(1) and Sections 13268(a) and (b), which authorize the imposition of an Administrative Civil Liability.

The Executive Officer of 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. O. C. Critchfield owns, and Harry Critchfield operates, a mobilehome park and a related wastewater treatment and disposal system on South Airport Road, ¼ of a mile west of Columbia Airport, in Tuolumne County. The facility is in Section 15, T2N, R14E, MD&M.
2. Wastewater treatment at the facility consists of two 1,500-gallon septic tanks plumbed in series. Effluent is pumped from the second tank to a series of six ponds. Some aeration is introduced into the first pond. Disposal is accomplished by evaporation and percolation from the ponds.
3. Waste Discharge Requirements (WDR) Order No. R5-2002-0069 was adopted by the Regional Board on 26 April 2002. The WDRs address the treatment, storage, and disposal of domestic wastewater at the Roll-In Mobilehome Park. That Order replaced WDR Order No. 85-124, adopted by the Regional Board on 31 May 1985.

HISTORY

4. On 9 November 2000 staff began receiving nuisance odor complaints from homeowners living in the vicinity of the mobilehome park. Since that time, staff has continued to receive nuisance odor complaints. To date, staff has received approximately 25 verbal complaints and 6 written complaints. Since 19 August 2002, six complaints have been received.
5. On 18 December 2000, staff issued a Notice of Violation for, among other things, the creation of nuisance odor conditions. The notice required the implementation of measures to increase dissolved oxygen (DO) levels in the wastewater ponds and eliminate nuisance conditions.

6. In response, the Discharger submitted a report indicating that, after implementing some modifications to wastewater pond recirculation system, the DO levels showed a significant increase, and no odors were noted.
7. However, staff continued to receive nuisance odor complaints. Because WDR Order No. 85-124 was inadequate to monitor treatment efficiency and pond health, staff initiated the process of updating the WDRs by requesting the Discharger submit a Report of Waste Discharge (RWD).
8. As part of the RWD, the Discharger submitted a proposal to pursue a plan to connect the facility's wastewater collection system to the Tuolumne Utilities District's (TUD's) sewer system. Once connected, the six existing wastewater ponds would be closed.
9. Updated WDRs were adopted by the Regional Board on 26 April 2002. The WDRs required the submittal of several reports pursuant to Section 13267 of the California Water Code, including:
 - a. *An Operation and Maintenance Plan* describing, among other things, measures to be taken to prevent nuisance odor conditions, due 30 June 2002;
 - b. *Monthly Monitoring Reports*, due by the first day of each month beginning with July 2002; and
 - c. Documentaion of entering into the necessary agreements for the proposed connection to TUD's sewer system, due 1 August 2002.
10. On 10 July 2002, staff telephoned the Discharger to discuss the overdue plans and reports. Staff communicated the seriousness of the matter, and informed the Discharger that continued noncompliance could result in an enforcement action.
11. On 9 August 2002, a Notice of Violation was issued to the Discharger for failure to submit monthly monitoring reports pursuant to Section 13267 of the California Water Code.
12. On 22 August 2002, staff confirmed the occurrence of nuisance odor conditions in the residential area in the vicinity of the facility.
13. The Discharger has failed to submit the reports described in Finding No. 9.

REGULATORY CONSIDERATIONS

14. The Discharger, by the acts and omissions above, 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....”

15. 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).”

16. 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.”

17. 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.”

18. 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. As of 29 August 2002, the Discharger has failed to submit the following:

- a. *An Operation and Maintenance Plan* (due on 30 June 2002);
- b. *A Monthly Monitoring Report* (due on 1 July 2002);
- c. *A Monthly Monitoring Report* (due on 1 August 2002); and
- d. Documentaion of entering into the necessary agreements for the proposed connection to TUD's sewer system (due on 1 August 2002).

18. As of 29 August 2002:

- a. The *Operation and Maintenance Plan* is 60 days late;
- b. The *July Monthly Monitoring Report* is 59 days late;
- c. The *August Monthly Monitoring Report* is 28 days late; and
- d. The agreement documentation is 28 days late.

19. The maximum liability for this nonsubmittal of technical reports is one hundred seventy five thousand dollars (\$175,000). No minimum liability is required to be imposed under Section 13268(b)(1).
20. 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.

O.C. AND HARRY CRITCHFIELD ARE HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed Administrative Civil Liability in the amount of ten thousand dollars (\$10,000.00). The amount of the liability proposed is based upon a review of the factors set forth in Water Code Section 13327 cited in Finding No. 17 above, and includes consideration of the economic benefit or savings resulting from the violations.
2. A hearing shall be held on **18 October 2002** unless the Discharger agrees to waive the hearing and pay the imposed civil liability in full.
3. If a hearing is held, the Regional 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 hearing, please sign the enclosed waiver and return it with the amount of civil liability (in a check made payable to the *State Water Resources Control Board*), to the Regional Board's office at 3443 Routier Road, Sacramento, CA 95827, by **17 September 2002**.

THOMAS R. PINKOS, Acting Executive Officer

29 August 2002

(Date)

WAIVER

By signing this waiver, O.C. Critchfield and Harry Critchfield agree to waive their rights to a hearing before the Central Valley Regional Water Quality Control Board and to remit payment for civil liability imposed in the amount of ten thousand dollars (\$10,000.00) by check made payable to the State Water Resources Control Board Cleanup and Abatement Account. The check must also contain a reference to ACL Complaint No. R5-2002- .

O.C. and Harry Critchfield understand that they are giving up their rights to argue against the allegations made by the Executive Officer in this Complaint, and against imposition of, and the amount, of civil liability imposed.

(Name)

(Title)

(Date)