

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ACL COMPLAINT NO. R5-2006-0513

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT  
IN THE MATTER OF

THE COUNTY OF TUOLUMNE AND THE COUNTY OF TUOLUMNE DEPARTMENT  
OF PUBLIC WORKS DIVISION OF SOLID WASTE  
JAMESTOWN MUNICIPAL SOLID WASTE LANDFILL FACILITY  
TUOLUMNE COUNTY

This Administrative Civil Liability Complaint (hereafter Complaint) is issued to the County of Tuolumne and the County of Tuolumne Department of Public Works Division of Solid Waste (hereafter jointly referred to as Discharger), based on findings of violations of Cease and Desist Order (CDO) No. R5-2004-0030 and provisions of California Water Code Section 13350 that authorize the imposition of 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 and failure to act, the following:

1. The Discharger owns the Jamestown Landfill, which is approximately one-half mile southeast of the town of Jamestown. The facility occupies a 54-acre parcel and consists of one 15.5 acre unlined waste management unit. The landfill footprint extends across the top of a north-south trending ridge as well as into the adjoining ravines.
2. The facility began receiving waste in 1974 and stopped receiving waste in 1995. On 9 December 1994, the Board issued Order No. 94-381, which classified the facility as a Class III landfill in accordance with Section 20005 of California Code of Regulations, Title 27 (Title 27).
3. Groundwater has been degraded by the landfill. Analytical samples from groundwater monitoring wells TM-1R, TM-3, TM-4RR, TM-5, TM-6, TM-7 and DM-2 have detectable levels of volatile organic compounds at less than 1 ppm.
4. On 6 September 2002, the Regional Board adopted Revised Waste Discharge Requirements (WDRs) Order No. R5-2002-0173 prescribing corrective action and closure requirements for the Jamestown Landfill. The Discharger was directed to proceed with the closure of the waste management unit as a corrective measure for the groundwater release.

5. Provision No. 12 of the WDRs requires that the Discharger complete the final closure of the landfill by 31 December 2003.
6. On 25 November 2003, the Discharger officially requested an extension to the closure date due to its limited number of Solid Waste staff and lack of budgetary resources that prevented compliance with the time schedule adopted in the WDRs. In response, Regional Board staff stated that they do not have the authority, regardless of the reasons, to grant an extension to a Board-adopted order. Regional Board staff did agree, however, to prepare a Cease and Desist Order for the Regional Board's consideration that would extend the deadline.
7. On 19 March 2004, the Regional Board adopted uncontested Cease and Desist Order (CDO) No. R5-2004-0030. CDO No. R5-2004-0030 requires that (a) construction of the final cover shall begin by 1 June 2004, (b) the cover shall be constructed and all corrective action measure shall be operational by 31 December 2004, and (c) a report documenting the final construction activities shall be submitted by 1 April 2005.

#### **Violations of the Cease and Desist Order**

8. According to the Discharger, on 15 June 2005, the final landfill cover was completed. This was more than five months after the required closure date in CDO No. R5-2004-0030, and therefore a violation of the CDO. This violation, however, is not the subject of this Complaint.
9. On 13 October 2005, a Notice of Violation was issued to the Discharger because the report documenting final construction activities had not been submitted, and was almost six months overdue. The letter stated if Board staff did not receive a complete report documenting the final closure construction in accordance with Section 20324(d) of Title 27 by 1 November 2005, then Regional Board staff would recommend further enforcement be taken. A report that fulfills this requirement has yet to be received by this office.
10. On 19 October 2005 staff met onsite with Tuolumne County to observe and evaluate the stability of the western slope and the final cover. At the conclusion of the inspection, staff requested that the final construction documentation be submitted. The County informed staff that there were issues with the gas wells that prohibited them from submitting the report.

11. On 31 January 2006, staff inspected the western slope of Jamestown Landfill. At the conclusion of the inspection, staff again requested that the final construction documentation be submitted. The County informed staff that they were waiting for the gas wells to be reinstalled prior to submitting the report. Staff suggested that the report be submitted immediately and an addendum be submitted with the forthcoming gas well work.
12. On 19 May 2006, staff inspected the Jamestown Landfill. At the conclusion of the inspection, staff requested that the final construction documentation be submitted. The County informed staff that they were waiting for the gas wells to be reinstalled prior to submitting the report. Staff again suggested that the report be submitted immediately and an addendum be submitted with the forthcoming gas well work.
13. On 28 June 2006, staff again inspected the western slope. At the conclusion of the inspection, staff requested that the final construction documentation be submitted. The County informed staff that they were waiting for the gas wells to be reinstalled prior to submitting the report. Staff again requested that the report be submitted right away, and suggested that the results of the forthcoming gas well work could be submitted in an addendum. The County agreed to submit the report immediately.
14. As of the date of this ACLC, the final closure documentation report has not been submitted. Portions of western slope cover of the Jamestown Landfill have slid downslope, and therefore the landfill has the potential to further degrade surface and groundwater quality. The final construction documentation is needed to help determine if the cover failure is due to construction or the design. Without this documentation Board staff is hampered in its ability to evaluate whether a new design is required to prevent future cover failure or whether poor construction has caused the failure.
15. By failing to submit the final construction documentation the Discharger has violated CDO No. R5-2004-0030.
16. California Water Code (CWC) Section 13350 states, in part, that:
  - (a) *Any person who (1) violates any cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board... shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e)...*
  - (e) *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.*

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

*(B) 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 not be less than one hundred dollars (\$100) for each day in which the violation occurs.*

17. The closure report was due by 1 April 2005. As of 20 July 2006, the Discharger has been in violation of CDO No. R5-2004-0030 for 476 days for failure to submit final construction documentation by 1 April 2005. The maximum liability for this CDO violation is two million, three hundred eighty dollars (\$2,380,000.00). The minimum liability for this violation is forty-seven thousand six hundred dollars (\$47,600.00).
18. CWC 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."*
19. 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.

THE COUNTY OF TUOLUMNE AND THE COUNTY OF TUOLUMNE DEPARTMENT OF PUBLIC WORKS DIVISION OF SOLID WASTE 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 \$50,000. The amount of the liability proposed is based upon the minimum required and maximum allowed liability under Section 13350(e)(1)(B), a review of the factors set forth in CWC Section 13327 cited in Finding No. 18 above, and upon consideration of the

economic benefit or savings resulting from the violations.

2. A hearing shall be held on **21/22 September 2006** 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 waiver and return it and the amount of civil liability in a check made payable to the *State Water Resources Control Board Waste Discharge Permit Fund*, to the Regional Board's office at 11020 Sun Center Drive, #200, Rancho Cordova, California 95670-6114, by **18 August 2006**.

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PAMELA C. CREEDON, Executive Officer

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25 July 2006

(Date)

**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 the County of Tuolumne or County of Tuolumne Department of Public Works Division of Solid Waste (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2006-0513 (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 agree to remit payment for the civil liability imposed in the amount of \$50,000 by check, which contains a reference to "ACL Complaint No. R5-2006-0513" and is made payable to the "*State Water Resources Control Board Waste Discharge Permit Fund.*"
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.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)