

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ACL COMPLAINT NO. R5-2004-0511

ADMINISTRATIVE CIVIL LIABILITY  
IN THE MATTER OF

DEGANAWIDAH QUETZALCOATL UNIVERSITY  
YOLO COUNTY

This Administrative Civil Liability Complaint (hereafter Complaint) is issued to Deganawidah Quetzalcoatl University (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 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. The Discharger owns and operates a domestic wastewater disposal system off of County Road 31 five miles northwest of Davis. The university and associated wastewater disposal system are in Section 5, T8N, R1E, MDB&M.
2. Domestic wastewater is discharged from a septic tank to an unlined oxidation pond. If necessary, excess wastewater can flow into an overflow pond.
3. Waste Discharge Requirements (WDRs) Order No. 96-128, adopted by the Regional Board on 3 May 1996, regulate the wastewater disposal system at the university.

**HISTORY OF VIOLATIONS**

4. Monitoring and Reporting Program No. 96-128 requires that the Discharger perform minimal monitoring of the wastewater ponds and submit monthly monitoring reports by the twentieth day of the following month.
5. On 28 July 2000, staff issued a Notice of Violation to the Discharger for failure to submit monthly monitoring reports. Only one monthly monitoring report (for the month of June 1998) had ever been received. The NOV required the Discharger to submit the August 2000 monthly monitoring report by 20 September 2000. The request for monitoring reports was made pursuant to CWC Section 13267.
6. On 26 September 2000, the Discharger submitted a letter stating that it had been unaware of the monitoring requirements prior to the NOV, but that it would be “... more diligent in the future.”
7. On 13 August 2001, staff inspected the facility and discussed the lack of monitoring reports with the Discharger. The Discharger asked staff to prepare a sample report form, which was subsequently transmitted on 1 November 2001.

8. On 1 November 2001, staff transmitted a letter notifying the Discharger that no monitoring reports had been received since January 2001 and reminded the Discharger that such monitoring reports are required to comply with the WDRs. No monitoring reports were submitted.
9. On 9 September 2003, the Executive Officer issued an order for submittal of monitoring reports pursuant to CWC Section 13267. Because of its long-standing failure to comply with the monitoring and reporting requirements of the WDRs, the Discharger was ordered to submit a report explaining why monitoring reports had not been submitted and providing a plan of action to ensure future compliance with the WDRs by 1 October 2003. The Discharger was also ordered to submit a complete monthly monitoring report for the month of September 2003 by 20 October 2003.
10. On or about 12 September 2003, the Discharger contacted staff by telephone and acknowledged receipt of the Order for reports. The Discharger stated that it would comply with the Order. However, no reports or other correspondence have been received.
11. For nearly four years, staff has attempted to work with the Discharger, and has foregone recommending civil liabilities for the Discharger's failure to submit monitoring reports required by the WDRs. The Discharger's failure to comply with the WDRs since their adoption in 1996 has prevented staff from determining whether the Discharger is in compliance with other requirements of the WDRs.

### **REGULATORY CONSIDERATIONS**

12. 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..."
13. 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)."
14. 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."
15. 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."

16. 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 avoided a minimum of eighty-eight monthly monitoring reports since adoption of the WDRs. However, since the 9 September 2003 Order for monitoring reports pursuant to CWC Section 13267 was issued, the Discharger has avoided six monitoring reports (for the months of September through December 2003 and January through February of 2004).
17. Based on the 9 September 2003 CWC 13267 letter, as of 6 April 2004:
  - a. The report explaining the Discharger's failure to comply is 188 days late;
  - b. The September 2003 Monthly Monitoring Report is 169 days late
  - c. The October 2003 Monthly Monitoring Report is 138 days late;
  - d. The November 2003 Monthly Monitoring Report is 108 days late;
  - e. The December 2003 Monthly Monitoring Report is 77 days late;
  - f. The January 2004 Monthly Monitoring Report is 46 days late; and
  - g. The February 2004 Monthly Monitoring Report is 17 days late.
18. The maximum liability for this nonsubmittal of technical reports is seven hundred forty-three thousand dollars (\$743,000). No minimum liability is required to be imposed under CWC Section 13268(b)(1).
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.

**DEGANAWIDAH QUETZALCOATL UNIVERSITY IS 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 twenty five thousand dollars (\$25,000). 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. 15 above, and includes consideration of the economic benefit or savings resulting from the violations.
2. A hearing shall be held on **3/4 June 2004** 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 full amount of civil liability (in a check made payable to the *State Water Resources Control Board*), to the Regional Board's office at 11020 Sun Center Drive, Rancho Cordova, Sacramento, CA 95670, by **4 May 2004**.

---

THOMAS R. PINKOS, Executive Officer

---

(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 Deganawidah Quetzalcoatl University (hereinafter known as “Discharger”) in connection with Administrative Civil Liability Complaint No. R5-2004-0511 (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. Without admitting liability for the matters alleged in the Complaint, I otherwise agree to remit payment for the civil liability imposed in the amount of twenty five thousand dollars (\$25,000) by check, which contains a reference to “ACL Complaint No. R5-2004-0511” and is made payable to the “*State Water Resources Control Board Cleanup and Abatement Account.*”
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 the Executive Officer has complete discretion to modify or terminate this settlement during the 30-day public comment period, which began on the date of the Complaint.
7. 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)