

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ACL COMPLAINT NO. R5-2005-0515

ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF

CITY OF PLYMOUTH
WASTEWATER TREATMENT PLANT
AMADOR COUNTY

This Administrative Civil Liability Complaint (hereafter Complaint) is issued to the City of Plymouth, (hereafter known as “Discharger”) based on a finding of failure to submit technical reports pursuant to California Water Code (CWC) Sections 13301 and 13267, and based on provisions of CWC Section 13267(b)(1), and Sections 13268(a) and (b); and CWC Section 13350(e)(1) 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 wastewater treatment, storage, and disposal system, which are located approximately two miles west of the City of Plymouth in Amador County.
2. Waste Discharge Requirements (WDRs) Order No. 5-01-095, adopted by the Regional Board on 27 April 2001, prescribes requirements for the treatment, storage and disposal of wastewater at the facility.
3. The WWTP consists of an aerated facultative pond, two polishing ponds, chlorination facilities, and a 185 acre-foot unlined effluent storage reservoir. Wastewater disposal occurs through spray irrigation on approximately 85 of the 125 acres of sprayfields owned by the City. The WDRs also allow disposal on land owned by Roy E. Mason, but only after submittal and approval of a Title 22 Engineering Report. That report has not yet been submitted.
4. The Finding of WDRs Order No. 5-01-095 describe a number of major deficiencies in the Discharger’s wastewater system, and therefore the WDRs required the Discharger to submit reports addressing upgrades to the facility. The major reports include a water balance, a revenue plan, a groundwater monitoring well installation workplan, a report showing that a stormwater water diversion ditch has been installed around the storage reservoir, and a Long Term Wastewater Management Plan.

PREVIOUS ENFORCEMENT

5. The Discharger has had a long history of violations of its WDRs. These violations include discharge of wastewater effluent to surface waters and surface drainage courses; failure to meet the dissolved oxygen and effluent limits prescribed by the WDRs; failure to comply with the monitoring and reporting program; failure to implement system upgrades and measures to ensure

compliance with the WDRs; and failure to submit all of the technical reports required by the WDRs.

6. On 21 August 2000 and 5 November 2004, the City of Plymouth was issued Notices of Violation (NOVs) for the discharge of wastewater into surface drainage courses within the spray disposal field areas.
7. On 12 November 2004, the City of Plymouth was issued a NOV for failure to comply with Reclamation Requirement D.6 of the WDRs which states, *“The Discharger may not discharge effluent on the disposal fields between 1 November and 1 April of each year...”*
8. On 23 October 2001 and 5 November 2004, the City of Plymouth was issued NOV’s for not consistently complying with Discharge Specification B.3, which states *“As a means of discerning compliance with Discharge Specification No. 2, the dissolved oxygen content in the upper zone (one foot) of all wastewater ponds shall not be less than 1.0 mg/l.”*
9. Monitoring and Reporting Program No. 5-01-095 requires that the Discharger conduct daily influent flow monitoring. On 4 November 2004, the City of Plymouth was issued a NOV because it had not been monitoring influent flows to the WWTP since September 2003.
10. Discharge Specification B.10 of the WDRs states *“On or about 1 October of each year, available pond storage capacity shall at least equal the volume necessary to comply with Discharge Specification No. 8 and 9.”* Discharge Specification B.8 states *“The freeboard in treatment ponds #1 and #2 shall never be less than two feet as measured vertically from the overflow pipe to the lowest point on the top of the berm. The freeboard in treatment pond #3 and the storage pond shall never be less than two feet as measured vertically from the water surface to the lowest point of overflow.”* Discharge Specification B.9 of WDRs states, *“The wastewater ponds shall have sufficient capacity to accommodate allowable wastewater flow, design seasonal precipitation, and ancillary infiltration and inflow. Design seasonal precipitation shall be based on total annual precipitation using a return period of 100 years, distributed monthly in accordance with historical rainfall patterns.”*
11. In September 2002, the City submitted its Long Term Wastewater Management Plan. The Plan included a water balance showing that the wastewater facility had sufficient treatment, storage, and disposal capacity only for current flows, and only if the storage reservoir is empty each fall, and if surface water runoff from the surrounding hillside is diverted away from the storage reservoir. However, because the storage reservoir was not empty in the fall of 2004, and not all surface water runoff is diverted away from the reservoir, the City is not in compliance with Discharge Specification B.10, and will not be able to comply with Discharge Specifications B.8 and B.9. An NOV was issued on 4 November 2004 for violation of Discharge Specifications B.8, B.9, and B.10.

12. Because of the Discharger's failure to make improvements and upgrades to the WWTP and to submit the technical reports prescribed by the WDRs, on 23 November 2004, staff issued a draft C&D Order and requested comments from the City.
13. The City submitted comments on 12 January 2005, requesting changes to dates by which certain tasks and improvements would be completed. These changes were incorporated.
14. On 27 January 2005, the Regional Board adopted Cease and Desist Order No. R5-2005-0006, which prescribes specific timetables for submitting reports and making improvements to the WWTP to ensure long-term compliance with the WDRs.

RECENT VIOLATIONS

15. Items No. 2 and 3 of the C&D require the submittal of a *Flow Meter Installation Report* and a *Contingency Plan*. Both reports were due on 28 February 2005. On 2 March 2005, staff notified the Discharger via telephone that the two reports were overdue. On 7 March 2005, the Discharger submitted the two reports.
16. Item No. 4 of the C&D requires the submittal, by 15 April 2005, of a *Wastewater Pond Aeration Report*. The purpose of this report was to show that aerator units have been installed in the wastewater treatment ponds to provide adequate treatment of the wastewater and to help prevent nuisance/odor conditions. During the week of 25 April 2005, staff notified the Discharger via telephone that the 15 April 2005 report was late. The Discharger stated that the report was not submitted because not all of the aerators had been installed. As of the date of the ACLC, the report had not been submitted.
17. Item Nos. 5 and 6 of the C&D require the submittal of a *Spray Irrigation Management Plan* and a *Spray Irrigation Improvement Report*. Both reports were due on 30 April 2005. The purpose of these submittals are to explain (1) how the City will manage its spray irrigation activities to prevent tailwater runoff from entering surface drainage courses and associated buffer zones within the sprayfields, and (2) describe the physical improvements made to the sprayfields to prevent tailwater runoff from entering the surface drainage courses and buffer zones. As of the date of the ACLC, the reports had not been submitted.
18. Item No. 7 of the C&D requires the submittal of a *Final Revenue Plan*, which was due by 30 May 2005. This plan is to show the cost associated with the necessary improvements/upgrades to the wastewater system, and whether the City has adequate funds to comply. If funds are not available, the Final Revenue Plan is to contain an implementation schedule to acquire the funds. As of the date of the ACLC, the report had not been submitted.

REGULATORY CONSIDERATIONS

19. By the acts and omissions cited above, the Discharger has violated C&D Order No. R5-2005-0006, which requires that all technical reports be submitted pursuant to CWC Section 13267.

20. CWC 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).”
21. CWC 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.”
22. 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.”
23. 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.”
24. CWC Section 13350(e)(1)(B) states: “(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.”
25. 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.”
26. As of 7 June 2005, the Discharger has failed to submit the following:
 - a. The *Wastewater Pond Aeration Report* (due on 15 April 2005);
 - b. The *Spray Irrigation Management Plan* (due on 30 April 2005);
 - c. The *Sprayfield Improvement Report* (due on 30 April 2005); and
 - d. The *Final Revenue Plan* (due on 30 May 2005).
27. Based on C&D Order No. R5-2005-0006, as of 7 June 2005:
 - a. The *Flow Meter Installation Report* was 6 days late;
 - b. The *Contingency Plan* was 6 days late;
 - c. The *Wastewater Pond Aeration Report* is 54 days late;
 - d. The *Spray Irrigation Management Plan Report* is 39 days late;
 - e. The *Sprayfield Improvement Report* is 39 days late; and
 - f. The *Final Revenue Plan* is 8 days late.

28. The required technical reports are a cumulative total of 152 days late. Therefore, the maximum liability under CWC Section 13268(b)(1) for the nonsubmittal of these technical reports is one hundred and fifty two thousand dollars (\$152,000). No minimum liability is required to be imposed under Section 13268(b)(1).
29. The Discharger has been in noncompliance with the C&D Order for 59 days. Therefore, the maximum liability under CWC Section 13350(e)(1) for the daily violation of the C&D Order is two hundred ninety five thousand dollars (\$295,000). The minimum liability under CWC Section 13350(e)(1)(B) is five thousand nine hundred dollars (\$5,900).
30. 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 CITY OF PLYMOUTH 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 thousand dollars (\$20,000). The amount of the liability proposed is based upon a review of the factors set forth in CWC Section 13327 cited in Finding No. 25 above, and includes consideration of the economic benefit or savings resulting from the violations.
2. A hearing shall be held on **4/5 August 2005** 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, Waste Discharge Permit Fund*) to the Regional Board's office at 11020 Sun Center Drive, Rancho Cordova, Sacramento, CA 95670, by **6 July 2005**.

Original Signed by
THOMAS R. PINKOS, Executive Officer

7 June 2005
(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 City of Plymouth, (hereinafter “Discharger”) in connection with Administrative Civil Liability Complaint No. R5-2005-0515 (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.
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 thousand dollars (\$20,000) by check, which contains a reference to “ACL Complaint No. R5-2005-0515” 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)