

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
81 Higuera Street, Suite 200
San Luis Obispo, CA 93401-5411

ADMINISTRATIVE CIVIL LIABILITY
ORDER NO. R3-2002-0097

Issued To

The City of Hollister
375 Fifth Street, Hollister, CA 95023
San Benito County

The California Regional Water Quality Control Board, Central Coast Region (Regional Board), finds that:

1. The City of Hollister (hereafter "Discharger" or "City") operates a wastewater collection, treatment, and disposal system that is regulated by Waste Discharge Requirements Order 00-020 (hereinafter Order No. 00-020).
2. On May 6, 2002, after catastrophic failure of its disposal pond levee, the City discharged approximately fifteen million (15,000,000) gallons of treated, but not disinfected, wastewater from Disposal Pond 6 at its Industrial Wastewater Treatment Facility to the San Benito River.
3. The City promptly reported the overflow to the Regional Board, California Department of Fish and Game, San Benito County Environmental Health Department, and State Office of Emergency Services. On May 10, 2002, the City provided the Regional Board with a more detailed report of the spill. The City admitted spilling an estimated 15 million gallons and explained the chronology of events prior to and after the levee failure.
4. City staff estimated 2.7 million gallons of the spilled effluent was pumped to Disposal Bed 15 at the City's Domestic Wastewater Treatment Facility for land disposal and the remainder of the 15 million gallons percolated into the dry riverbed.
5. Disposal Pond 6 is a point source within the meaning of the Federal Water Pollution Control Act (Clean Water Act) (40 C.F.R. section 122.2.). The San Benito River is a "navigable water" within the meaning of the Clean Water Act (33 U.S.C. section 502(7); 40 C.F.R. section 122.2.).
6. Section 301(a) of the Federal Water Pollution Control Act ("Clean Water Act"), 33 U.S.C. section 1311, prohibits discharging pollutants from a point source to navigable waters without complying with a National Pollutant Discharge Elimination System (NPDES) permit.
7. The Discharger violated Clean Water Act section 301 and, pursuant to Water Code section 13385, the Regional Board may impose civil liability. Civil liability may be administratively imposed by the Regional Board in an amount not to exceed the sum of \$10,000 per day for each day the violation occurs, and \$10 per gallon for each gallon discharged in excess of 1,000 that is not cleaned up.
8. The Regional Board is required under Water Code section 13385 to assess, at

a minimum, civil liability at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. In this case, the Discharger's economic benefit resulting from the violations is considered negligible.

9. In determining the amount of liability to be imposed, the Regional Board considered all the factors specified in Water Code section 13385 and modified the analysis of those factors contained in WORK SHEET FOR ASSESSMENT OF ADMINISTRATIVE CIVIL LIABILITY attached to Complaint No. R3-2002-0097. Specifically, the Regional Board determined the degree of culpability was greater, citing the lack of a burrowing animal control program at the Industrial Wastewater Treatment Facility when such a program has been in place at the Domestic Wastewater Treatment Facility for years. In addition, the Regional Board specified negligible economic benefit to the Discharger (as a result of the 15-million gallon spill) did not warrant a reduction from the maximum when determining the appropriate amount of liability. The amount ordered herein is greater than the initially proposed liability, but is still less than the maximum liability of \$123,000,000.
10. This enforcement action is taken for the protection of the environment and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, *et seq.*) in accordance with sections 15307 and 15308, Title 14, California Code of Regulations.
11. A hearing on this matter was held before the Regional Board on September 19, 2002, at Salinas City Council Chamber Rotunda, 200 Lincoln Avenue, Salinas, California. The Discharger, or the Discharger's representative(s), had the opportunity to be heard and to contest the allegations in Complaint No. R3-2002-0097, which

recommended imposition of civil liability by the Regional Board.

12. At the hearing, the Regional Board considered whether to affirm, reject, or modify the proposed administrative liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability pursuant to Section 13385 of the California Water Code. The Regional Board moved to increase the proposed administrative liability, doubling the proposed amount to one million two hundred thousand dollars (\$1,200,000), but suspending the majority of the liability pending the Discharger's successful completion of compliance and supplemental environmental projects (minus Regional Board staff costs). Adoption of this Order was continued to the November 1, 2002 meeting in San Luis Obispo, CA.

IT IS HEREBY ORDERED, pursuant to Section 13385 of the California Water Code, the Discharger is assessed a total civil liability of One Million Two Hundred Thousand Dollars (\$1,200,000.00).

Staff Costs

The sum of Twenty Four Thousand Dollars (\$24,000.00) shall be paid to the Regional Water Quality Control Board by **December 4, 2002** for staff costs incurred as a result of the spill. The check shall be made payable to the State Water Resources Control Board.

Suspended Liability

The sum of One Million One Hundred Seventy-Six Thousand Dollars (\$1,176,000.00) is suspended subject to the following conditions:

1. \$200,000 is suspended on condition the Discharger:
 - a. Pays \$24,000 for Regional Board staff costs by **December 4, 2002**, as described above and

- b. Reduces, by **August 1, 2003**, suspended solids in treated effluent discharged to the disposal beds at the Domestic Wastewater Treatment Facility such that 30-day average concentrations do not exceed 60 milligrams per liter (mg/l). The Discharger shall demonstrate timely compliance with all terms of this compliance project to the satisfaction of the Executive Officer.

2. An additional \$200,000 is suspended on condition the Discharger:

Completes construction and initiates use, by **August 1, 2003**, of new treatment plant headworks at the Domestic Wastewater Treatment Facility. The headworks shall be designed and constructed such that the Discharger can accurately measure influent flow volumes. The design shall also ensure prevention of nuisance odor conditions at the headworks. The Discharger shall demonstrate timely compliance with all terms of this compliance project to the satisfaction of the Executive Officer.

3. An additional \$200,000 is suspended on condition the Discharger:

Fully implements, by **October 15, 2005**, all aspects of the Long-term Wastewater Management Program required under Provision 7 of Waste Discharge Requirements Order No. 00-020 for the Industrial Wastewater Treatment Facility. Full implementation includes all necessary permitting actions, environmental review, design, construction, and funding. The Discharger shall demonstrate timely compliance with all terms of this compliance project to the satisfaction of the Executive Officer.

4. An additional \$150,000 is suspended on condition the Discharger:

Expend, at a minimum, \$150,000 to construct a fully functional emergency wastewater storage basin at the Domestic Wastewater Treatment

Facility. The Regional Board Executive Officer shall approve the storage basin design prior to construction. The emergency storage basin shall only be utilized during periods when the Discharger reasonably expects to exceed freeboard limitations in treatment or disposal ponds at the Domestic Wastewater Treatment Facility. Should actual costs for the storage basin be less than \$150,000, the difference between the actual cost and \$150,000 shall be applied to the hydrogeologic study, defined below. The storage basin shall be completely constructed and available for emergency use by **January 1, 2003**. A final report documenting construction completion with a line-item budget for the cost of the basin shall be submitted **within fifteen (15) days** of construction completion. Submittal of this documentation shall constitute project compliance with respect to the suspended liability.

5. An additional \$300,000 is suspended on condition the Discharger:

Expend, at a minimum, \$300,000 (or \$300,000 plus cost savings from construction of the emergency storage basin) to fund a hydrogeologic study in the vicinity of the Domestic and Industrial Wastewater Treatment Facilities. The study scope, subject to Executive Officer approval, shall include, but not be limited to, the following objectives:

- i. Determine the hydrogeologic conditions in the study area, including principal geologic features, aquifer characteristics, and factors influencing ground and surface water movement.
- ii. Determine the mechanisms for and factors influencing constituent transport in ground and surface water in the study area.
- iii. Determine if disposal of treated effluent at both the Domestic and

Industrial Wastewater Treatment Facilities impacts ground and surface water beneficial uses, and if so, what level of significance is associated with those impacts.

- iv. Determine mitigation measures to address any adverse impacts resulting from disposal of treated effluent at both the Domestic and Industrial Wastewater Treatment Facilities.
- v. Determine if the existing collective ground and surface water monitoring network is adequate for detecting and evaluating impacts from wastewater disposal activities.
- vi. The study shall be designed such that it will be completed by May 20, 2004, for submittal as part of the Report of Waste Discharge for the Discharger's Long-term Wastewater Management Program required under Provision 7 of Waste Discharge Requirements Order No. 00-020 for the Industrial Wastewater Treatment Facility.

The Discharger shall submit, for Executive Officer approval, a scope of work for the proposed study in accordance with the above-listed objectives no later than **December 6, 2002**. **Within ninety (90) days** of Executive Officer approval of the scope of work, the Discharger shall submit, for Executive Officer approval, a formal work plan and cost estimate for the study. Should the estimated study cost exceed \$300,000 (or \$300,000 plus cost savings from construction of the emergency storage basin), and additional funding for the study is unavailable, the Discharger shall propose amendments to the work plan to correlate with the level of funding. Upon Executive Officer approval of the work plan, the Discharger shall place \$300,000 (or \$300,000 plus cost savings from construction of the emergency storage basin) in an escrow account

designated for the purpose of funding the study. The Discharger shall submit documentation that the funds have been placed in the escrow account **within fifteen (15) days** of deposit. Submittal of this documentation shall constitute project compliance with respect to the suspended liability.

6. An additional \$126,000 is suspended on condition the Discharger:

Provide to the Water Resources Association of San Benito County, at a minimum, \$126,000 for water conservation activities. These activities shall focus on programs resulting in installation of low-flow fixtures in residential, commercial, industrial, or institutional settings. The Discharger shall develop, in conjunction with the Water Resources Association, a program and timeline for utilizing the \$126,000, subject to approval by the Regional Board Executive Officer. This program shall be submitted for Executive Officer approval by **December 6, 2002**, and fully funded **within thirty (30) days** of Executive Officer approval. The Discharger shall submit documentation that the funds have been provided to the Water Resources Association for the purpose of completing the agreed-upon program **within fifteen (15) days** of issuance. Submittal of this documentation shall constitute project compliance with respect to the suspended liability.

Additional Provisions

Within thirty (30) days of written notice from the Executive Officer that any of the compliance projects or supplemental environmental projects have not been completed on time in accordance with the requirements of this Order, the Discharger shall pay the amount of suspended liability applicable to the project or projects that are referred to in the written notice.

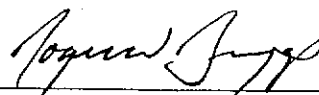
If the \$24,000 payment for Regional Board staff costs and each of the above projects are completed within the prescribed timelines, the

requirements of this Order will be completely satisfied.

The Regional Board retains its authority to amend the time schedules for any or all of the

compliance projects and supplemental environmental projects if it determines delays are due to circumstances beyond the Discharger's reasonable control.

I, **Roger W. Briggs, Executive Officer**, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the Regional Water Quality Control Board, Central Coast Region, on November 1, 2002.



Roger W. Briggs
Executive Officer

11-7-02

Date