

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION**

**DRAFT CEASE AND DESIST ORDER NO. R3-2016-0015  
REQUIRING  
DAVID ROBERTSON, CENTRALLY GROWN, INC., AND  
CENTRALLY GROWN HOLDINGS, LLC  
TO CEASE AND DESIST DISCHARGING WASTE  
IN VIOLATION OF  
WASTE DISCHARGE REQUIREMENTS ORDER NO. 97-10-DWQ**

**[Revised July 13, 2016]**

**WHEREAS** the California Regional Water Quality Control Board, Central Coast Region (hereinafter Water Board) finds that:

1. David Robertson, agent/operator; facility owner Centrally Grown, Inc., a Delaware corporation; and land owner Centrally Grown Holdings, LLC, a limited liability company (collectively referred to in this order as “Discharger”), own and/or operate the domestic wastewater collection and treatment and disposal system at 7432 Exotic Gardens Drive in Cambria, San Luis Obispo County, assessor’s parcel number 013-381-002.
2. The Discharger collects, treats, and disposes of domestic wastewater from a restaurant and adjoining single family dwelling. The Water Board notified the Discharger of regulatory coverage under Water Quality Order No. 97-10-DWQ, General Waste Discharge Requirements for Discharges to Land by Small Domestic Wastewater Treatment Systems on January 22, 2013.
3. Water Quality Order No. 97-10-DWQ provides in relevant parts:
  - A. Prohibitions 2. “The treatment and disposal of wastes at the facility shall not cause pollution, contamination, or nuisance as defined in CWC Section 13050...”
  - A. Prohibitions 4. “Bypass or overflow of treated or untreated waste is prohibited...”
  - B. Requirements: 5. a. “The subsurface wastewater disposal system(s) shall be maintained so that at no time will sewage surface at any location...”
  - D. Provisions 1. s. “Adequate measures shall be taken to assure that unauthorized persons are effectively excluded from contact with the wastewater disposal facility(s) ...”
  - D. Provisions 1. d. “The Discharger shall comply with “General Monitoring and Reporting Program No. 97-10-DWQ...and any future revisions...”
  - D. Provisions 1. f. “The Discharger at all times shall properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Discharger to achieve compliance with conditions of this Order.”

4. The facility employs an engineered onsite wastewater treatment and effluent disposal system (WWTS) that includes an Orenco Advantex textile-based biofilter package treatment system with a Geoflow subsurface shallow drip irrigation system. The treatment train includes a 2,000-gallon grease trap, followed by three 5,000-gallon concrete tanks arranged in series with the first tank used for extended settling time, the second utilizing an Orenco aeration device, and the third used for clarification and flow equalization. After exiting the third tank, flow proceeds downhill to a 5,000-gallon recirculation tank before entering an Orenco Advantex AX-100 treatment system (three pods). Treated effluent is pumped from a final 5,000-gallon holding/equalization tank to the Geoflow subsurface drip irrigation system for dispersal 12 inches below grade for percolation and transpiration uptake.
5. The Water Board has adopted the *Water Quality Control Plan for the Central Coastal Basin* (the Basin Plan), which designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for receiving waters within the Region.
6. The following groundwater quality objectives listed in the Basin Plan apply to all groundwater in the Estero Bay Hydrologic Unit, San Simeon Hydrologic Sub-Area where the subject discharge occurs: Municipal and Domestic Supply (MUN) and Agricultural Supply (AGR).
7. Water Code section 106.3 subdivision (a) declares it is the established policy of the State that “every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.”
8. Water Code section 13267 authorizes the Water Board to require any person who discharged, discharges, or is suspected of having discharged or discharging, within its region, to furnish technical or monitoring program reports in connection with any action relating to any requirement authorized by Division 7 of the Water Code. The Water Board invokes this authority in monitoring and reporting programs such as Monitoring and Reporting Program (MRP) No. 97-10-DWQ, as revised, or in separate orders such as noted below.
9. The Water Board notified the Discharger of its non-compliance with Order No. 97-10-DWQ and the revised Monitoring and Reporting Program No. 97-10-DWQ requirements during inspections on December 4, 2014, and July 8, 2015, as well as during meetings at the site on July 9, 2015, and December 12, 2015.
10. According to the Report of Waste Discharge submitted by the Discharger on October 22, 2012, peak flows from site operations were expected to be 4,630 gallons per day, but actual flow volumes are unknown due to the lack of monitoring and reporting.
11. In December 15, 2014 prior to the restaurant fully opening, and on four separate occasions in 2015, Water Board staff observed ponded effluent in or around the disposal field, causing staff to conclude that the Discharger’s wastewater disposal system was either not being properly operated and maintained, or that the disposal

- field was improperly installed and therefore might be unable to properly contain and dispose of wastewater generated at the facility.
12. The ponded effluent in the disposal field violates Order No. 97-10-DWQ Prohibition 2, Prohibition 4, Requirement B. 5.a., Provision D.1.f., and Provision D.1.s. referenced in Paragraph 3 above.
  13. On July 10, 2015, the Water Board issued a Notice of Violation (NOV) and Water Code section 13267 order for information to the Discharger. The Discharger responded to the NOV on July 31, 2015, by having a contract operator/maintenance company, Clay's Septic, email a list of items that "could" or "should" be implemented to potentially remedy the non-compliance issues. This response was inadequate to address the cited deficiencies in an expedited manner.
  14. The Water Board issued a second NOV and Water Code section 13267 order for information on August 7, 2015, requiring that a technical report addressing system fixes be authored by a licensed civil engineer with experience designing similar onsite wastewater treatment systems and that the report include a "plan to remedy the surfacing effluent situation expeditiously, including a specific timeline with milestones for implementing the plan."
  15. The Discharger responded to the August 7, 2015 NOV and Water Code section 13267 order by submitting a plan authored by the licensed civil engineer that originally designed the treatment system for remedying the ponding effluent situation, including a timeline for achieving the proposed fixes.
  16. On October 15, 2015, the contracted engineering firm supplied a progress update report regarding the items scheduled to be accomplished according to the submitted plan. This progress update revealed that the Discharger had chosen to ignore a key item in the list of repairs. The Discharger had capped the first 10 emitter lines in the disposal field at low points, but reported that "due to the extent of this work and the cost associated with installation" the Discharger failed to install 520 linear feet of subsurface disposal lines in a new location to replace the lines that were capped. The effect of the Discharger's actions was to reduce the net amount of subsurface disposal line available to the system.
  17. Monitoring and Reporting Program No. 97-10-DWQ, revised for Centrally Grown on January 22, 2013, required monthly sampling of the WWTS influent and effluent for the first six months after new treatment plant start-up, to be reduced to an annual frequency once the treatment plant "demonstrates consistent achievement" of the manufacturer's target effluent concentrations for biological oxygen demand and total suspended solids of 30 mg/L each and a total ammonia reduction of 50 to 60%. Monitoring reports were required to be submitted quarterly.
  18. The Discharger failed to submit any of the required quarterly monitoring reports or associated analytical data, despite being verbally reminded of the requirements to do

so multiple times by Water Board staff, and notified in writing in the NOV issued July 10, 2015.

19. On December 14, 2015, the Water Board Executive Officer signed a second revision of the MRP for the Centrally Grown treatment and disposal system. This second revision of the MRP increased the monitoring frequency to weekly, and the reporting frequency to monthly. The second revision of the MRP states that: "These monitoring frequencies shall remain in place until the Water Board Executive Officer has determined, in writing, that the wastewater treatment and disposal systems are functioning properly and capable of operating on a long-term basis without violating permit requirements."
20. On February 2, 2016, the Water Board issued an NOV for failure to comply with the MRP, specifically that the December 2015 monthly self-monitoring report (SMR) submitted on January 15, 2016, was inadequate. The NOV documented the following deficiencies: 1) the distances between the outlet device top of sludge layers and bottom of scum layers were not measured and reported as required; 2) the influent and effluent monitoring was not conducted concurrently as required; and 3) the signatory requirements for the SMR were not met. In addition, the NOV noted that the 2015 annual report was not submitted.
21. On March 28, 2016, the Water Board issued an NOV for failure to comply with the MRP. Specifically, the NOV noted that the Discharger has not submitted SMRs for January and February 2016, which were due February 15, 2016 and March 15, 2016 respectively.
22. Water Code section 13301 authorizes the Water Board to issue a cease and desist order when it finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements or discharge prohibitions prescribed by the Water Board. The findings of this Order indicate the Discharger has discharged waste or is threatening to discharge waste in violation of Order No. 97-10-DWQ, and therefore warrant issuance of this Cease and Desist Order.
23. This Order is an enforcement action to protect the environment, and as such, is exempt from the provisions of the California Environmental Quality Act (CEQA), in accordance with Title 14, California Code of Regulations, Chapter 3, Sections 15307, 15308 and 15321.
24. This Order prohibits discharge of wastewater from the existing treatment and disposal facilities until implementation of corrective actions as required below.
25. On April 29, 2016, the Water Board notified the Discharger and interested agencies and persons of its intent to adopt this Order, and has provided them with an opportunity to submit written evidence and comments.

26. Any person adversely affected by this action of the Water Board may petition the State Water Board to review the action. The petition must be received by the State Water Board Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100, within 30 days of the date which the action was taken. Copies of the law and regulations applicable to filing petitions will be provided upon request, and are available at:

[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality/](http://www.waterboards.ca.gov/public_notices/petitions/water_quality/).

**IT IS HEREBY ORDERED**, in accordance with Water Code section 13301 and section 13267, that the Discharger shall immediately cease and desist from discharging and threatening to discharge wastes in violation of Order No. 97-10-DWQ, and shall take appropriate remedial or preventative actions as follows before re-commencing discharges from the wastewater treatment system:

**Tasks To Be Completed Before Re-Commencing Wastewater Treatment Operations:**

1. The Discharger shall submit a technical report tabulating all wastewater flow and wastewater quality data collected since installation of the wastewater treatment system.
2. The Discharger shall contract with a licensed civil engineer, with requisite onsite wastewater system design experience, to evaluate, propose, document and oversee the repair and redesign of the treatment and disposal system as required to treat and dispose of 100 percent of the facility wastewater flow. The repair and redesign shall include appropriate source control and pretreatment measures to prevent grease loading to the treatment and disposal system, and built-in safety factors per engineering standard practice for onsite wastewater systems to prevent disposal system overloading (e.g., dual disposal systems, etc.). The repair and redesign of the subsurface disposal system may include reconnection of the historical leachfield as supported by sufficient evidence documenting its location, construction and capacity. Prior to implementing the chosen repair and redesign alternatives, the Discharger shall have its engineering consultant submit a technical report to the Executive Officer for review and approval of the work. The required technical document shall also include a disposal system performance testing plan designed to evaluate and document the capacity of the disposal system. The Discharger shall provide Water Board and County staff with at least two weeks advanced notice of the performance testing so they can witness the testing. The Discharger shall contract with a licensed civil engineer who will oversee any wastewater treatment and disposal system changes necessary and shall submit a technical report prepared by the engineer certifying that 100% of the wastewater originating in the restaurant (including all dishwashing activities) is being routed through the grease trap. The Discharger shall also submit to the Water Board a copy of the signed contract.
3. ~~The contracted licensed civil engineer shall perform an evaluation of the existing grease trap and shall make a determination as to whether the installation of a larger or more advanced grease recovery system is warranted. The Discharger shall submit a technical report prepared by the engineer detailing the evaluation and~~

- ~~recommended actions. In the event that a larger or more advanced grease recovery system is warranted, the technical report shall include a date-certain timeline for the installation of the new grease recovery system. The Discharger shall comply with the installation timeline unless revised by the Water Board Executive Officer. Upon project completion the Discharger shall submit a *Grease Recovery System Installation Project Completion Technical Report* prepared by the engineer certifying the installation and the system's readiness for use.~~
- ~~4. The Discharger shall award a construction contract to install 520 linear feet of subsurface disposal line to replace the disconnected line in the original leach field. The construction shall be complete prior to recommencing discharging from the treatment system. The Discharger shall submit a copy of the signed construction contract and a technical report prepared by the associated licensed engineer documenting the project and certifying its completion and readiness for use.~~
- ~~3. The Discharger shall have its engineering consultant provide the Executive Officer with a technical report documenting the implementation and results of the disposal system performance testing plan per requirement number two above, along with as-built documents for the repaired and redesigned treatment and disposal system.~~
- ~~4. The Discharger shall provide the Executive Officer with proof that it has secured a performance bond in an amount sufficient to repair or replace the treatment and disposal system components as determined by estimates calculated by the Discharger's licensed civil engineer.~~
- ~~5. The Discharger shall not re-commence discharge from the wastewater treatment system until it receives written approval from the Water Board Executive Officer.~~
- ~~6. Upon receiving the Water Board Executive Officer's written approval, the Discharger shall in writing notify the Water Board Executive Officer of the date the Discharger will re-commence its wastewater discharge in full compliance with Order 97-10-DWQ and MRP 97-10-DWQ, as renewed or revised.~~

~~**Tasks For Completion After Re-Commencing Wastewater Operations:**~~

- ~~75. **Within 90 days of re-commencing wastewater operations,** tThe Discharger shall submit an Operations Maintenance and Monitoring Plan (OMMP) for approval by the Water Board Executive Officer.~~
- ~~6. The Discharger shall provide the Executive Officer proof that it has entered into a performance based contract with a Grade II licensed wastewater treatment plant operator to operate and maintain the treatment and disposal system. Subject to Executive Officer approval, this requirement may be reduced to a Grade I operator upon request after it has been demonstrated that the system can be operated without failure for at least one year.~~



- ~~8. The Discharger shall implement the approved OMMP and re-evaluate the plan whenever administrative, operational, treatment process, monitoring, or other related changes occur that warrant OMMP revision. The Discharger shall submit proposed OMMP revisions to the Water Board Executive Officer for approval.~~
- ~~9. If the existing disposal field exhibits surfacing or ponding of effluent, then the Discharger shall again immediately cease and desist from discharging and threatening to discharge wastes in violation of Order No. 97-10-DWQ. The Discharger shall take one of the following corrective actions:~~
- ~~a. Rehabilitate the existing subsurface disposal area to restore its designed capability to function in full compliance with Order 97-10-DWQ, while continuing to reserve the 100% disposal field replacement land area currently designated for future use;~~
  - ~~b. Design and construct a new 100% replacement subsurface disposal area in the currently reserved land area and certify that the existing subsurface disposal area can function as the required 100% replacement land area for future use. This option is only available if the engineer certifies via technical report that the existing disposal field can be rehabilitated to properly function as a subsurface disposal area in full compliance with Order No. 97-10-DWQ; or,~~
  - ~~c. Connect to a municipal sewer system.~~

~~Based on the selection of option a. or b. above, the Discharger shall award a contract to a licensed civil engineer to evaluate the potential to rehabilitate the existing disposal field and design, install, and construct any necessary remedies, and for the potential design and construction of a 100% replacement subsurface disposal area (leach field) and the appropriate plumbing. The selected corrective actions shall be designed by a licensed civil engineer with experience designing such systems. The Discharger shall submit a copy of the signed design and construction contract(s).~~

~~The Discharger shall submit technical reports prepared by the associated licensed engineer documenting proposed corrective actions at least 7 days before implementation. Upon project completion, the Discharger shall submit a technical report prepared by the associated licensed engineer documenting the project and certifying its completion and the treatment system's readiness for use. All technical reports shall include but not be limited to engineering analysis and design, water and soil sampling results as available, conclusions and recommendations, and related calculations.~~

- ~~407.~~ The Discharger shall provide further information or technical reports in relation to this Order as may be required by the Water Board Executive Officer.
- ~~418.~~ The Discharger shall not re-commence operation of discharge from the wastewater treatment and disposal system ~~to the rehabilitated existing subsurface disposal area or the new replacement subsurface disposal area~~ until it receives written approval from the Water Board Executive Officer.

**429.** Upon receiving the Water Board Executive Officer's written approval, the Discharger shall in writing notify the Water Board Executive Officer of the date the Discharger will re-commence its wastewater discharge **in full compliance with Order 97-10-DWQ and MRP 97-10-DWQ, as renewed or revised.**

If, in the opinion of the Water Board or its delegate, the Discharger fails to comply with the provisions of this Order, the Water Board may pursue further enforcement action. The Executive Officer or Assistant Executive Officer or other delegate may issue a complaint for administrative civil liability or take any other applicable enforcement action. Failure to comply with this Order may result in the assessment of administrative civil liability for up to \$1,000 per violation per day, pursuant to Water Code section 13268, or \$5,000 per violation per day, pursuant to Water Code section 13350. Any discharge to waters of the United States may result in administrative civil liability up to \$10,000 per discharge violation per day pursuant to Water Code section 13385. The Water Board may refer this matter to the Attorney General for judicial enforcement. The Water Board reserves its right to take any enforcement actions authorized by law.

#### **Electronic Submittal of Information**

The Discharger is directed to submit all reports required under this CDO adopted by the Water Board, as well as all other future monitoring reports, in Electronic Data Format – searchable Portable Document Format (.pdf) to [Centralcoast@waterboards.ca.gov](mailto:Centralcoast@waterboards.ca.gov).

#### **CERTIFICATION**

I, John M. Robertson, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Central Coast Region on July 29, 2016

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John M. Robertson  
Executive Officer