

REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION

ADVISORY TEAM SUMMARY REPORT FEBRUARY 14, 2024

ITEM 5

SUBJECT

Second Revised Cease and Desist Order No. R9-2024-0008, United States Marine Corps, Las Pulgas Landfill, United States Marine Corps Base Camp Pendleton San Diego County. *(David Gibson, Alex Sauerwein)*

KEY ISSUE

The San Diego Water Board will hear evidence and testimony regarding Second Revised Cease and Desist Order No. R9-2024-0008, United States Marine Corps, Las Pulgas Landfill, United States Marine Corps Base Camp Pendleton San Diego County (CDO) (**Supporting Document No. 1**). Adoption of the CDO will require the United States Marine Corps (Discharger) to immediately cease and desist from discharging and threatening to discharge waste in violation of the federal Clean Water Act, Water Code, Basin Plan discharge prohibitions, Waste Discharge Requirements Order No. R9-2010-0004 as amended, and the Industrial Storm Water NPDES Permit. The CDO would require the Discharger to cease accepting waste at the Las Pulgas Landfill (Landfill) until the Discharger has demonstrated that the Landfill (1) has a stormwater management system capable of managing run-on and run-off from a 24-hour, 100-year storm event, (2) has a leachate collection and removal system (LCRS) capable of managing liquid produced at the Landfill including during a 24-hour, 100-year storm event, (3) has been evaluated for structural integrity of the liner system and repaired and/or reconstructed as needed. The CDO alleges that the Discharger has and would otherwise continue to harm beneficial uses of surface and groundwater from the Landfill in San Diego County.

PRACTICAL VISION

The CDO would address sources of pollution to surface water and groundwater in the Las Pulgas Hydrologic Subarea (901.52) of the San Onofre Hydrologic Area (901.50) of the San Juan Hydrologic Unit (HU 901.00). The CDO may therefore advance the Practical Vision through protection of stream, wetland, and riparian lands (PV Chapter 3) and protection of a resilient local water supply (PV Chapter 6).

The overall direction of groundwater flow at the Las Pulgas Landfill is to the south and southeast towards Las Flores Creek. Federally-listed endangered species have been found in Las Flores Creek and the Las Flores Creek lagoon. Groundwater beneath the Landfill is located in an alluvial aquifer and a deep aquifer. The *2022/2023 Annual Water Quality Monitoring Report* for the Landfill reports that the alluvial aquifer depth ranges from approximately 14 to 76 feet below ground surface (bgs) and the deep aquifer depth ranges from approximately 18 to 53 feet bgs. There are three water supply wells located approximately 5 miles from the Landfill that contribute to the domestic water supply at Marine Corps Base Camp Pendleton (MCBCP).

DISCUSSION

The Landfill is located in the Las Pulgas Hydrologic Subarea of the San Onofre Hydrologic Area. Stormwater and leachate drain from the Landfill to stormwater basins and to Las Flores Creek. (**Supporting Document No. 2**) Adjacent to the Landfill is Las Pulgas Creek which is a hydrologically connected and a tributary to Las Flores Creek. Las Flores creek discharges into a lagoon and then into the Pacific Ocean. Beneficial uses designated in the Water Quality Control Plan for the San Diego Basin (Basin Plan) for the San Onofre Hydrologic Area include agricultural supply (AGR), Municipal and Domestic Supply (MUN). Beneficial uses designated in the Basin Plan for Las Flores Creek include AGR, water contact recreation (REC-1), non-contact water recreation (REC-2), warm freshwater habitat (WARM), wildlife habitat (WILD).

The CDO seeks to prevent waste discharges of leachate and stormwater from entering Las Flores Creek and downstream waters. Leachate is composed of “any liquid formed by the drainage of liquids from waste or by the percolation or flow of liquid through waste.”¹ Liquids composed of stormwater mixed with leachate, composed of stormwater in contact with waste, or liquids that are removed from an LCRS are considered leachate.

Site Background

The CDO proposes over 20 findings about the operations at the Landfill that are summarized here. The Discharger operates the Las Pulgas Landfill that is located on Basilone Road, North of Camp Pulgas, MCBCP, California, 92055. The Landfill began operating in March 1971 and the San Diego Water Board began regulatory oversight of the Landfill in 1974. The Landfill serves as the primary waste disposal site for MCBCP, and only accepts municipal solid wastes generated within the boundaries of MCBCP. Currently the Landfill is composed of three units; one unit is an inactive, 40-acre, unlined area no longer accepting waste, and two units (Phase I and Phase II) comprise a 20-acre active area with composite liner systems and a LCRS. The Discharger has planned for three additional units to be installed at a later time.

¹ CCR title 27 § 20164. Combined CalRecycle & SWRCB Technical Definitions.

The Discharger requested to construct the Phase 1 unit of the landfill in 1998, began to line the Phase 1 unit in 1999, and began accepting waste in 2000. This work was completed without receiving comments or concurrence from the San Diego Water Board. The Board then issued Order No. 2000-54, *Waste Discharge Requirements for the U.S. Marine Corps, Marine Corps Base Camp Pendleton, Las Pulgas Landfill, San Diego County* on May 10, 2000, which updated existing waste discharge requirements (WDRs) for the Landfill and prescribed new liner design requirements for all future expansion areas at the Landfill. Since the construction of the Phase 1 unit, there have been regulatory actions taken by the Board in connection with liner system failure, site maintenance, corrective actions, pausing waste acceptance, and unauthorized discharge of leachate. These regulatory actions include two cleanup and abatement orders (issued in 2006 and 2010), updated WDRs (Orders No. R9-2010-0004 and R9-2011-0039) and eight recent notices of violation (issued in 2022 and 2023).

CDO Requirements

The CDO requires the Discharger to:

1. Immediately cease accepting waste at the Landfill
2. Post and maintain signage for closure of the Landfill
3. Submit a Notice of Intent to comply with California State Water Resources Control Board Order No. 2009-0009-DWQ, as amended by Orders No. 2010-0014-DWQ and 2012-0006-DWQ, to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction Storm Water Permit), and to submit a stormwater pollution prevention plan (SWPPP) specific to the Phase I unit reconstruction project area
4. Submit a Stormwater and Leachate Management Investigation Work Plan
5. Submit a Liner Evaluation Work Plan
6. Submit a Work Plan Completion Report to summarize results and findings of the work completed based on the aforementioned work plans
7. Submit a Corrective Action Plan to address any issues identified in the Workplan Completion Report
8. Submit a Corrective Action Completion Report to verify all necessary corrective actions for the Landfill were completed.

Cessation of acceptance of waste at the Landfill would only be necessary until the Discharger demonstrated that the stormwater and leachate management systems are capable of managing run-on and leachate produced during a 24-hour, 100-year storm event, and the structural integrity of the liner components for the Phase I and Phase II Units has been evaluated, repaired as needed, and certified by the San Diego Water Board. Meanwhile, all waste diverted from the Landfill must be taken to a licensed waste acceptance facility.

The Stormwater and Leachate Management Investigation Work Plan will evaluate the existing stormwater and leachate management systems for the Landfill and provide explanations for the unauthorized waste discharges, a list of measures needed to prevent future unauthorized discharges, and a prioritized list of actions needed to prevent additional damage to the management systems. The Liner Evaluation Work Plan will provide discussions related to investigating the Phase I Unit liner system, investigating the Phase II Unit liner repair project, and of the actions needed demonstrate compliance with Order No. R9-2010-0004 and CCR title 27.

The CDO states that once the Discharger complies with all directives described in the order, a No Further Corrective Action Letter (Letter) will be issued. However, prior to the Letter being issued, the San Diego Water Board can revoke the Discharger's right to accept waste at the Landfill if implementation of corrective actions has not been sufficiently completed.

The Discharger submitted timely written comments during the public comment period (**Supporting Document No. 4**).

PUBLIC NOTICE AND COMMENTS

Tentative Cease and Desist Order No. R9-2023-0085 (Tentative Order) (**Supporting Document No. 8**) was released for public review and comment on October 12, 2023, with comments due by November 17, 2023. Subsequently, on November 9, 2023, the Prosecution Team extended the comment deadline to December 1, 2023. A Revised Notice of Opportunity to Comment (Notice) (**Supporting Document No. 7**) was posted on the San Diego Water Board website and sent to all interested parties. The Notice identified availability of the Tentative Order for review and provided instructions for submittal of written comments.

The San Diego Water Board received two comment letters on the Tentative Order. One comment letter is from a member of the public and is in support of the adoption of the Tentative Order (**Supporting Document No. 5**). One comment letter is from the Discharger (**Supporting Document No. 4**).

The Discharger provided 15 comments in its letter, the majority of which are related to phrasing, clarification, and deletion of certain statements. Comment 13 of 15 states that the Discharger, "believes an issuance of a CDO [Cease and Desist Order] is unnecessary at this present juncture and that the remediation plan laid out in current draft CDO is most appropriately issued in a Cleanup and Abatement Order."

In response to the Discharger's comments and other public comments received, the San Diego Water Board Prosecution Team prepared a Second Revised Tentative Order (**Supporting Document No. 1**) and a Response to Comments document (**Supporting Document No. 6**). Both documents were transmitted to the Discharger and interested persons on December 26, 2023.

The CDO incorporates several of the Discharger's comments. The CDO includes edited and additional phrasing regarding several past actions completed at the site and replaces the use of the word 'wastewater' with 'leachate'. Additionally, the CDO now includes a provision that the Discharger may request extensions in writing for deadlines outlined in the Order. Discretion regarding granting or denying the extension is delegated to the Executive Officer of the San Diego Water Board.

The CDO number was changed from R9-2023-0085 to R9-2024-0008 on January 2, 2024, due to the year in which the CDO is being presented to the San Diego Water Board for consideration. This was the only change made to the CDO from the Revised Tentative Order No. R9-2023-0085 (**Supporting Document No. 3**) to Second Revised Tentative Order No. R9-2024-0008 (**Supporting Document No. 1**).

Notice of the public hearing on the CDO was also provided in the Meeting Notice and Agenda for the February 14, 2024, San Diego Water Board meeting, which is posted on the San Diego Water Board website.

SUPPORTING DOCUMENTS

1. Second Revised Tentative Order No. R9-2024-0008
2. Site Figures
3. Revised Tentative Order No. R9-2023-0085
4. Comment Letter from the Discharger
5. Other Comment Letter Received
6. Response to Public Comments Timely Received
7. Revised Notice of Opportunity to Comment
8. Tentative Cease and Desist Order No. R9-2023-0085
9. Redline / Strikeout Version of Revised Tentative Order No. R9-2023-0085