

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CEASE AND DESIST ORDER R5-2012-0092

FOR
CLARK STRUCTURAL, LLC AND CLARK PACIFIC GENERAL PARTNERSHIP
FORMER SPRECKELS SUGAR COMPANY FACILITY
YOLO COUNTY

TO CEASE AND DESIST
FROM DISCHARGING CONTRARY TO REQUIREMENTS

The California Regional Water Quality Control Board, Central Valley Region, ("Central Valley Water Board" or "Board") finds that:

1. On 14 March 2003, the Central Valley Water Board adopted Waste Discharge Requirements (WDRs) Order R5-2003-0047, for the former Spreckels Sugar facility. The WDRs include compliance schedules for the removal and characterization of Precipitated Calcium Carbonate (PCC) from various ponds and storage piles.
2. The facility covered approximately 230 acres and is located outside of Woodland, at the intersection of County Roads 101 and 18C. The facility was formerly owned by Imperial Sugar Company and formerly operated by Holly Sugar Corporation doing business as Spreckels Sugar Company. The facility operated from 1937 until 2000, and manufactured sugar from sugar beets.
3. Clark Structural, LLC currently owns the portion of the facility that is subject to this Order (Assessor Parcel Numbers 027-250-051, 027-250-191, and 027-250-061). Clark Pacific General Partnership operates the facility. Clark Structural, LLC and Clark Pacific General Partnership are hereafter collectively referred to as "Discharger". The Central Valley Water Board adopted Name Change Order R5-2012-0091 on 4 October 2012 to revise WDRs Order R5-2003-0047 to reflect the current owner and operator of the facility. The Discharger is responsible for compliance with WDRs Order R5-2003-0047.
4. Prior to the end of 2000, Spreckels Sugar Company generated wastewater that was discharged to land at an average rate of 2.6 million gallons per day. The primary waste streams were generated from beet "wash water" and from slurried PCC; the waste was managed in mud settling ponds, PCC ponds, PCC waste piles, and irrigated cropland. This Order applies to the PCC waste pile area only, since the discharge of waste ceased in 2000, and the mud settling ponds and PCC ponds have been remediated and closed to the satisfaction of the Board.
5. Provision 3.e of WDRs Order R5-2003-0047 states: *By 15 December 2006 complete and submit a report that documents that all remaining stockpiled PCC has been removed from the storage area.*

6. Provision 3.f of WDRs Order R5-2003-0047 states: *By 15 August 2007 complete and submit a report that presents the results of PCC storage area confirmation sampling and an interpretation of the data that compares the results of background quality, and assesses the need to remediate and/or close the storage area. If applicable, the report shall also discuss any soil over-excavation performed to remove additional impacted native material.*

HISTORY OF REMOVAL OF PCC

7. PCC has a number of beneficial uses. In the agricultural industry, it is used as a soil conditioner to raise the pH of acidic soils and as a fertilizer. At dairies, PCC is used to prevent mastitis and control flies. It can also be used in the power generation industry at biomass plants to control combustion emissions. Yolo County Central Landfill is also looking into using the PCC as alternative daily cover. In light of the beneficial uses of PCC, reuse of the material is environmentally superior to disposal or offsite storage.
8. According to an aerial survey performed in 2005 by Sugarland Farms, LLC (a former property owner and operator) approximately 305,000 tons of PCC remained on-site. In August 2005, Sugarland Farms, LLC contracted with a third party to remove a minimum of 50,000 tons per year or more if market conditions allow.
9. The WDRs required that the remaining PCC piles be completely removed from the site by 15 December 2006. In a letter dated 7 August 2006, Sugarland Farms, LLC requested a five year extension.
10. In a letter dated 16 August 2006, Central Valley Water Board staff stated that the WDRs would not be revised, but indicated that staff would not propose enforcement as long as Sugarland Farms, LLC removed the PCC piles remaining at an annual rate of 50,000 tons per year. Following this schedule, the PCC would be removed by 2011.
11. Sugarland Farms, LLC sold the property to Reverse Exchange Properties in February 2008. Reverse Exchange Properties sold the property to Clark Structural, LLC in May 2010. Clark Pacific General Partnership began operating the property in early 2008. As owner and operator, Clark Structural, LLC and Clark Pacific General Partnership are responsible for maintaining compliance with the WDRs, which includes PCC removal and site cleanup.
12. On 11 April 2012, staff conducted an inspection of the PCC piles. Staff observed that the Discharger was relocating one of the PCC piles to form a compacted, low profile stockpile. However, a significant volume of PCC remained in a loose, un-compacted state that could be subject to wind and precipitation events.
13. Board staff also reviewed the Second Half 2011 Semi-Annual Report, which stated that the Discharger had removed approximately 36,000 tons of PCC during 2011. According to the Semi-Annual Reports, between 2008 and the end of 2011, the

Discharger removed approximately 142,000 tons of PCC, or an average of 35,500 tons/yr. The Second Half 2011 Semi-Annual Report estimated that approximately 60,000 tons of PCC remained on-site.

14. Staff met with the Discharger on 27 April 2012 to discuss compliance issues. During the meeting the Discharger disclosed that a recent survey found that approximately 212,000 tons of PCC remained on-site, as compared to the 60,000 tons reported in the 2011 Annual Report. The Discharger stated that PCC is only removed from the site as market conditions allow.
15. A Notice of Violation was issued on 30 April 2012 for non-compliance with Provisions 3.e and 3.f of the WDRs. The NOV required the submittal of a work plan and proposed schedule of PCC removal and phased cleanup.
16. During May 2012, the Discharger conducted a survey of the PCC piles to determine a more precise estimate of the volume of PCC remaining on-site. According to the Discharger, previous estimates were low and the May 2012 survey shows that approximately 212,000 tons of PCC remain on-site. The Discharger has stated that the current market demand for PCC would support the removal of 60,000 tons per year. In a July 2012 letter, the Discharger stated that it "will commit to removing no less than 60,000 tons of PCC off site per year".
17. The Discharger has divided the PCC piles into three areas for phased cleanup; these areas are identified as Areas A, B, and C. In May 2012, the Discharger proposed to remove all of Area A (approximately 83,000 tons) by 1 August 2012, and to complete removal of Areas B and C (a total of approximately 129,000 tons) by 1 January 2016. In July 2012, the Discharger redefined areas A, B, and C, which changed the tons of material in each.
18. In addition to a phased removal of the PCC, the Discharger has proposed to conduct a phased cleanup of the PCC storage area and conduct a phased soil confirmation sampling program to meet the requirements of Provision 3.f of the WDRs and to support a "No Further Action" request. This Order accelerates the Discharger's proposed removal schedule and incorporates the Discharger's proposal for phased cleanup.
19. The Discharger's 18 May 2012 document titled *Workplan for Final Removal of PCC at Former Spreckels Sugar Facility* contains a listing of Best Management Practices which will be followed when removing PCC from the facility. This Order requires that the Discharger update the plan to evaluate whether additional BMPs are necessary to prevent PCC dust from leaving the property either by wind, in storm water, or by tracking onto public roadways. This Order also requires that the Discharger conduct inspections on a daily basis to ensure that the BMPs are sufficient.

20. The Discharger has not met the schedule in WDRs R5-2003-0047, which is a violation of the WDRs. This Order provides a revised schedule for the Discharger to complete the off-site removal of all PCC by 31 December 2015. In order to do so, the Order requires that at least 60,000 tons of PCC be removed off-site each calendar year. Some allowance will be made for fluctuation in the winter-time consumer demand provided that the Discharger documents that it has implemented all options for beneficial reuse, as described in Hereby Ordered Item No. 2.

REGULATORY CONSIDERATIONS

21. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised September 2009 (hereafter "Basin Plan"), designates beneficial uses, establishes water quality objectives, and contains implementation plans and policies for all waters of the Basin.
22. The designated beneficial uses of underlying groundwater, as stated in the Basin Plan, are domestic, agricultural, and industrial supply.
23. Surface water runoff from the site drains to the south and then into the regional surface water drainage system that ultimately empties into the Yolo Bypass, which drains to the Sacramento San Joaquin Delta. As described in the Basin Plan, the beneficial uses of the Sacramento San Joaquin Delta are municipal and domestic supply; agricultural supply, industrial supply, industrial process supply, water contact recreation, non-contact water recreation, warm fresh water habitat, cold freshwater habitat, migration of aquatic organisms, spawning, reproduction, and/or early development, wildlife habitat, and navigation.
24. Water Code section 13301 states in part,

When a regional board finds that a discharge of waste is taking place or threatening to take place in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventative action...
25. As a result of the events and activities described in this Order, the Central Valley Water Board finds that the discharge of waste is taking place or threatening to take place in violation of WDRs Order R5-2003-0047. This Order requires the Discharger to take appropriate remedial action and to comply in accordance with the time schedule set forth below.
26. Water Code section 13267, subdivision (b)(1) states that:

In conducting an investigation specified in subdivision (a), 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... shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

27. The Discharger owns and operates the facility subject to this Order. The technical reports required by this Order are necessary to determine compliance with the facility's WDRs and this Order.
28. The issuance of this Order is an enforcement action by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to Section 15321(a)(2) of Title 14, California Code of Regulations.
29. On 4 October 2012, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order under Water Code section 13301 to establish a time schedule to achieve compliance with waste discharge requirements.

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13301 and 13267, Clark Structural, LLC and Clark Pacific General Partnership, its agents, successors, and assigns shall, in accordance with the following tasks and time schedule, implement the following closure schedule and activities to ensure compliance with WDRs Order R5-2003-0047.

Any person signing a document submitted under this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

1. Beginning with calendar year 2012, the Discharger shall remove from the site¹ a minimum of 60,000 tons of PCC per calendar year, or a greater volume as necessary to remove all PCC from the facility by 31 December 2015.

¹ The "site" is defined in Findings 2 and 3.

2. In the event that less than 60,000 tons of PCC are removed off-site by the end of a calendar year, the Discharger may request to utilize a “carry over” provision, which would allow for the volume of PCC removed in January and February of the following year to be counted toward the prior calendar year requirement. If the Discharger wishes to utilize this provision, then **prior to December 31**, the Discharger must notify staff and provide (a) documentation showing that it has actively pursued all other beneficial reuse options to meet the 60,000 tons per year requirement, (b) the number of tons removed during the current calendar year, and (c) the number of tons anticipated to be removed in January and February of the following year. Regional Board staff will review the submitted information and make a written determination whether to authorize the Discharger to use the “carry over” provision. If the “carry over” provision is permitted in a particular year, the Discharger is still required to remove 60,000 tons during that year, excluding the amount removed under the carry over provision. Regardless of whether the “carry-over” provision is utilized, the Discharger must comply with this Order’s final removal date of 31 December 2015.
3. The storage and removal of PCC shall take place in a manner that (a) prevents the wind-blown deposition of PCC off the Discharger’s property, (b) prevents storm water from transporting PCC offsite, and (c) does not result in tracking on public roadways. If the Discharger’s daily inspections² find that the storage or removal of PCC violates any of the above conditions, then the Discharger shall notify Board staff within 24 hours. The notification may be made by telephone, fax, or email, and shall include a description of the violation and the additional BMPs which were implemented to bring the Discharger back into compliance.
4. By **1 November 2012**, the Discharger shall submit a *Revised Best Management Practices for the Removal of PCC*. The document shall evaluate efficacy of the current BMPs and propose new BMPs, as appropriate, to ensure compliance with Item No. 3, above.
5. Beginning with the month of **October 2012**, the Discharger shall conduct daily inspections and shall submit monthly monitoring reports. The reports shall include the volume of PCC removed that month. In addition, the reports shall provide (a) the results of daily³ inspections designed to ensure that the chosen BMPs are sufficient to comply with Item #3, above, (b) a description of the specific BMPs that were implemented that month, (c) any revised BMPs implemented in response to the daily inspections, (d) a projection of how much PCC will be removed during the calendar year and (e) whether or not this projection will result in compliance with the timelines of this Order. If not, then the report shall identify other beneficial reuse options, and show that the Discharger has implemented these options to the extent needed to comply with the timelines. The monthly monitoring reports shall be submitted by the

² Required by Item No. 10

³ As used in this Order, “daily” means Monday through Friday. However, if PCC is being moved on a Saturday or Sunday, then inspections shall also be conducted on those days.

15th day of the month following the end of the inspection period (i.e., the October 2012 report is due 15 November 2012).

Reports Documenting PCC Removal

6. By **31 March 2013**, the Discharger shall submit a report documenting that it has completed the offsite removal of at least 60,000 tons of PCC (or more as needed to comply with the timeline found in Item No. 1 of this Order) during the 2012 calendar year with adjustments, if any, as allowed in Item No. 2 of this Order. The report shall include the volume and tons of material removed, hauling records, and a map showing the areas from which PCC has been removed at the site.
7. By **31 March 2014**, the Discharger shall submit a report documenting that it has completed the off-site removal of at least 60,000 tons of PCC (or more as needed to comply with the timeline found in Item No. 1 of this Order) during the 2013 calendar year with adjustments, if any, as allowed in Item No. 2 of this Order. The report shall include the volume and tons of material removed, hauling records, and a map showing the areas from which PCC has been removed at the site.
8. By **30 January 2016**, the Discharger shall submit a report documenting that it has completed the off-site removal of all PCC from the entire facility. The report shall include the volume and tons of material removed, hauling records, and a map showing the areas from which PCC has been removed at the site.

Reports Documenting PCC Soil Remediation

9. By **31 March 2013**, the Discharger shall submit a *2012 PCC Removal Confirmation Soil Sampling Report*. As proposed in the work plan dated 18 May 2012, a minimum of three soil samples will be collected from a depth of one, three, and five feet from at least two locations within the area from which PCC was removed during 2012. An additional background sample shall be collected from an uncontaminated location near the PCC area and the background soil samples will also be collected from a depth of one, three, and five feet. Samples shall be analyzed for total dissolved solids (TDS), bicarbonate, calcium, and sodium using a deionized water waste extraction test. Results shall be evaluated and submitted in the confirmation soil sampling report.
10. By **31 March 2014**, the Discharger shall submit a *2013 PCC Removal Confirmation Soil Sampling Report* as proposed in work plan dated 18 May 2012 and as described in Item No. 9, above. The confirmation samples shall be collected from the area from which PCC was removed during 2013.
11. By **30 January 2016**, the Discharger shall submit a *2014-2015 PCC Removal and Dirt Pile Confirmation Soil Sampling Report* as proposed in work plan dated 18 May 2012 and as described in Item No. 9, above. The confirmation samples shall be

collected from the area from which PCC was removed in 2014 and 2015, as well as from the dirt pile area.

In accordance with California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain workplans for, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain the professional's signature and/or stamp of the seal.

If, in the opinion of the Assistant Executive Officer, the Discharger fails to comply with the provisions of this Order, the Assistant Executive Officer may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions.

Failure to comply with this Order or with the WDRs may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality
or will be provided upon request.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 4 October 2012.

Original signed by

PAMELA C. CREEDON, Executive Officer