

ITEM: 12

SUBJECT: City of Lone, Wastewater Treatment Plant, Amador County

BOARD ACTION: *Consideration of Modifying Cease and Desist Order (CDO)
R5-2011-0019*

BACKGROUND: The City of Lone (the "City") owns and operates a wastewater treatment facility that provides secondary treatment and effluent disposal via a system of ponds. The Board has issued a Water Code section 13267 Order requiring the submittal of technical reports, a 2003 CDO, and a 2011 CDO, all of which require the City to upgrade its wastewater treatment plant to address four reoccurring violations:

- (1) Wastewater seeps into Sutter Creek, which constitutes an unpermitted discharge that violates the Clean Water Act;
- (2) Groundwater has been polluted as a result of wastewater disposal, which violates the WDRs;
- (3) Surfacing of wastewater, considered a violation of the WDRs, continues;
- (4) Percolation Pond 7 was constructed and is being operated without authorization, in violation of the WDRs and Water Code.

The 2003 CDO required the City to complete a Wastewater Master Plan by November 2004, and then submit a Report of Waste Discharge (RWD) within 60 days of staff's approval of the Master Plan. The City submitted a final Master Plan over five years late, in March 2010. However, the Master Plan did not comply with the 2003 CDO. The City submitted various RWDs, the most recent in September 2010. However, none of the RWDs fulfilled the requirements of the 2003 CDO.

In early 2011, the Prosecution Team evaluated whether it would be more appropriate to propose an Administrative Civil Liability (ACL) Complaint charging the City for failing to comply with the 2003 CDO, or whether to propose a new CDO with new timelines. The Prosecution Team decided to propose a new CDO because the City, in asking for one more chance, proposed a timeline that, although years late, would eventually result in compliance. At the CDO hearing, the Board members (including the Vice Chair) expressed the opinion that an ACL Complaint might have been more appropriate, but the Board nonetheless issued the 2011 CDO after the City Manager and a City Council member pledged that the City would comply with the new timelines. The 2011 Order allowed the City until 30 January 2012 to submit a Seepage Discharge Compliance Plan, until May 2012 to submit a RWD, and until 30 October 2013 to certify that the treatment plant upgrades were completed.

The City submitted the Seepage Discharge Compliance Plan on time. Staff's review found that the City's proposal could result in compliance, but that additional information was needed. However, since January, the City has made no progress toward complying with additional deadlines in the CDO. The City no longer has an engineering consultant under contract to prepare the RWD or apply for funding to construct the treatment plant upgrades.

ISSUES:

The City has asked that the Board extend the timelines in the 2011 CDO for both the RWD and final compliance. The City requests that the RWD due date be changed from 30 May 2012 to 30 November 2012, and that the date for construction of the treatment plant be extended from 31 October 2013 to 30 May 2014. Alternatively, the City asks that the date for submittal of the RWD be extended to 30 November 2012 but that the date for construction remain the same as in the 2011 CDO, at 31 October 2013.

The Prosecution Team recommends against extending the timelines in the 2011 CDO. The City has already been given 11 years to make the improvements needed to protect surface water quality and groundwater quality. However, the City has been unable to reach a decision on how to proceed. The proposals that have been submitted to the Board have not been technically complex, but they have failed to fully address the four main compliance issues noted above. The Board has issued similar enforcement orders to other small communities within the Central Valley Region, and these communities have been able to reach consensus and move forward. One has not. Even if the deadlines within the 2011 CDO are extended, the City is not currently in a position to show that it will be able to comply.

Prosecution's Recommendation: The Prosecution Team recommends that no change be made to Cease and Desist Order R5-2011-0019.

Mgmt. Review WSW
Legal Review

30 March 2012 Meeting
Central Valley Regional Water Quality Control Board meeting
11020 Sun Center Dr. #200
Rancho Cordova, CA 95670