

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER R5-2015-0723  
FOR

A GREENER GLOBE CORPORATION  
BERRY STREET MALL (AKA FINGER'S) LANDFILL  
PLACER COUNTY

This Order is issued to A Greener Globe Corporation (hereafter Discharger) based on provisions of California Water Code section 13304, which authorizes the California Regional Water Quality Control Board, Central Valley Region, (hereafter Central Valley Water Board or Board) to issue a Cleanup and Abatement Order (CAO), and Water Code section 13267, which authorizes the Board to require the submittal of technical reports.

The Assistant Executive Officer of the Central Valley Water Board finds, with respect to the Discharger's acts, or failure to act, the following:

1. The Discharger owns the Berry Street Mall (AKA Finger's) Landfill, a closed 13 acre Class III landfill located along Galleria Boulevard about 0.3 miles north of Berry Street in the City of Roseville (Site or Facility). The Site includes a single closed landfill unit with associated facilities that include drainage controls, landfill gas controls, a leachate sump, and groundwater and landfill gas monitoring wells. Approximately 95% of the disposal area is unlined; the remaining area is a former clay pit that was subsequently used for disposal.
2. Waste Discharge Requirements (WDRs) Order R5-2011-0048 were adopted by the Board on 10 June 2011. These revised WDRs included updated requirements for landfill monitoring and corrective action in accordance with California Code of Regulations (CCR), Title 27, Division 2 (Title 27 regulations).
3. There has been a long history of non-compliance at this site, as detailed in the Findings of the WDRs.
4. WDRs Order R5-2011-0048 requires the submittal of multiple technical reports, and outlines the date by which each report shall be submitted. A table summarizing all technical reports required by Order R5-2011-0048 and the respective due date was included in the 16 June 2011 *Notice of Adoption* letter.
5. In addition to the technical reports required by WDRs Order R5-2011-0048, the WDRs contain an updated Monitoring and Reporting Program (MRP), which specifies monitoring and reporting requirements to be implemented by the Discharger.
6. None of the six technical reports required by the WDRs have been submitted, and each monitoring report that was submitted was materially deficient (i.e., not completed as required by the WDRs) and lacked the information necessary for Water Board staff to assess impacts to water quality.

7. On 9 April 2014, a Notice of Violation (NOV) for Delinquent Reports was issued to the Discharger for failure to submit both technical and monitoring reports required by the WDRs. The NOV required the submittal of all delinquent reports and an amended version of all incomplete monitoring reports. No response to this NOV was received.
8. On 20 March 2015, a second NOV was issued to the Discharger for submitting materially deficient monitoring reports. No response to this NOV was received.
9. On 4 June 2015, the Central Valley Water Board issued Administrative Civil Liability Order R5-2015-0064 in the amount of \$677,531 to the Discharger for the failure to submit the technical and monitoring reports required by the WDRs.
10. Volatile organic compounds (VOCs) have historically been detected in groundwater at this Site, as described in Finding 35 of WDRs Order R5-2011-0048 which lists the measured concentrations of VOCs in onsite monitoring wells from May 1999 to December 2009.
11. In 2004, the Discharger implemented an evaluation monitoring program (EMP) to investigate the source and extent of the VOC impacts from the landfill. As part of the investigation, the Discharger installed two new monitoring wells. Samples from the new wells initially were non-detect for VOCs but since completion of the EMP investigation, carbon tetrachloride has been detected in these two new monitoring wells.
12. The lack of technical and monitoring reports has prevented Water Board staff, and other agencies charged with regulating this facility, from assessing the Discharger's compliance with Title 27 and the WDRs, and from assessing the residual waste's threat to water quality and human health. Failure to submit these reports also prevents Water Board staff and other agencies from assessing the conditions of the landfill's monitoring and control facilities, including the site's groundwater monitoring wells, soil gas probes, leachate collection system, storm water controls, and the conditions of the engineered cover, including slope stability.

#### **VIOLATIONS OF ORDER R5-2011-0048 AND WATER CODE**

13. Discharge Prohibitions A.2 provides that the Site "shall not cause pollution or a nuisance, as defined by CWC Section 13050, and shall not cause degradation of any water supply."
14. The limited groundwater monitoring completed to date indicates that the landfill may have impacted groundwater at this Site, causing a condition of pollution or nuisance. Historical groundwater monitoring data for the Site is limited due to the Discharger's noncompliance. Most of the groundwater data was collected during the past fourteen years. VOCs have historically been detected in groundwater at the Site, and the landfill has been identified as the source of carbon tetrachloride, chloroform, dichlorodifluoromethane (see Finding 38 of WDRs Order R5-2011-0048.)

## REGULATORY CONSIDERATIONS

15. As described above, the Discharger's landfill has caused, or threatens to cause, a condition of pollution or nuisance. Water quality protection standards for carbon tetrachloride, chloride, TDS, and specific conductance have been exceeded downgradient of the landfill, thereby unreasonably affecting, or threatening to affect, the beneficial uses of groundwater, including domestic and municipal
16. The Discharger has failed to submit any of six technical reports required by WDRs Order R5-2011-0048 and has failed to conduct monitoring and reporting as required by the WDRs/MRP. The Regional Board relies on the submission of technical and monitoring reports required by the WDRs and MRP which are necessary to assure compliance with WDRs, to protect the beneficial uses of waters of the state, to protect against nuisance, and to protect human health and the environment
17. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition* (Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Resources Control Board. Surface drainage is to an onsite intermittent stream, which is tributary to the south branch of Pleasant Grove Creek, thence Pleasant Grove Creek; Verona Cross Canal; and the Sacramento River. The designated beneficial uses of the Sacramento River (Colusa Basin Drain to "I" Street Bridge) are municipal and domestic supply; agricultural supply (excluding stock watering); water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; migration of aquatic organisms; spawning, reproduction and/or early development; wildlife habitat; and navigation.
18. The beneficial uses of the ground water are municipal and domestic supply, agricultural supply, industrial service supply and industrial process supply.
19. Water Code section 13304(a) states, in relevant part: *Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.*

Based on the limited groundwater monitoring completed to date, the Site has discharged waste to groundwater and continues to cause or permit waste to be discharged into waters of the state where it probably will discharge to waters of the state and threatens

to create a condition of pollution or nuisance.

20. Water Code section 13267(b) states, in relevant part: *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.*
21. The technical reports required by this CAO are necessary to ensure compliance with this CAO and WDRs Order R5-2011-0048, and to ensure the protection of water quality, including the assessment of the extent of the contamination or pollution to groundwater. A key component of a regulatory program is self-monitoring. Many of the reports required under this Order are necessary for the Regional Board to assess the ongoing threat of the Site's impact to groundwater. The burden, including costs, of producing the technical reports, many of which were already required as a condition of the Discharger's operations, bears a reasonable relationship to the need for the reports and is far outweighed by the Regional Board's duty to protect of water quality.
22. The State Water Resources Control Board (hereafter State Board) has adopted Resolution No. 92-49, the *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304*. This Policy sets forth the policies and procedures to be used during an investigation or cleanup of a polluted site and requires that cleanup levels be consistent with State Board Resolution No. 68-16, the *Statement of Policy with Respect to Maintaining High Quality of Waters in California*. Resolution No. 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution No. 92-49 requires the waste to be cleaned up to background, or if that is not reasonable, to an alternative level that is the most stringent level that is economically and technologically feasible in accordance with Title 23, California Code of Regulations (CCR) Section 2550.4. Any alternative cleanup level to background must (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the Board.
23. The issuance of this Order is being taken for the protection of the environment and as such is exempt from provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) pursuant to California Code of Regulations, title 14, sections 15061 subdivision (b)(3), 15306, 15307, 15308, and 15321 subdivision (a)(2).

**IT IS HEREBY ORDERED**, pursuant to Water Code sections 13304 and 13267 of the California Water Code, A Greener Globe Corporation shall cleanup and abate the Berry Street Mall (Aka Finger's) Landfill in accordance with the scope and schedule set forth below.

1. The Discharger shall **immediately** comply with all aspects of WDRs Order R5-2011-0048 and the Water Code that are not specifically referred to in this Order.
2. The Discharger shall **immediately** begin monitoring and reporting as required by WDRs Order R5-2011-0048. The WDRs require semiannual monitoring and reporting with the First Semiannual report due each year by **31 July** and the Second Semiannual/Annual report due each year by **31 January**. The next semiannual monitoring report due per the WDRs, the Second Semiannual/Annual report, shall be submitted by **31 January 2016**.
3. By **30 September 2015**, the Discharger shall submit a technical report containing the name, contact information, and registration number of the Professional Engineer or Registered Geologist who has been retained to complete the reports listed in Items 4 through 8, as well as the monitoring reports 2015 Second Semiannual/Annual Monitoring Report, the 2016 First Semiannual Monitoring Report, and the 2016 Second Semiannual/Annual Monitoring Report. The report shall clearly show that the professional has been retained to complete the reports described in this paragraph.
4. By **31 October 2015**, the Discharger shall submit a *Landfill Monitoring and Control Facilities Status Report* that contains the information listed in Provision G.3 of the WDRs. As stated in the WDRs, the *Report* shall contain the following information: "...the condition and operational status of all landfill monitoring and control facilities at the site, including, but not necessarily limited to, the following:
  - a. Landfill containment system (i.e., cover)
  - b. Subsurface leachate drain and collection sump
  - c. Landfill precipitation and drainage controls
  - d. Standby LFG collection system
  - e. LFG monitoring points (i.e., stub-outs)
  - f. Soil gas monitoring wells
  - g. Lysimeters
  - h. Groundwater monitoring wells/

For each monitoring and/or control facility above, the status report shall address/include the following:

- Intended purpose or function of facility or device;
- Design and mode of operation;
- Operational history;
- Current condition and operational status;
- Effectiveness in achieving purpose or function (i.e., as designed and in current condition);
- Whether facility meets requirements of WDRs;
- Proposed measures (i.e., repairs, replacement, and/or improvement) to restore or improve facility effectiveness and/or bring facility into WDR compliance; and

- A work plan and schedule for implementing such proposed measures.”

5. By **30 November 2015**, the Discharger shall submit an updated postclosure maintenance and monitoring plan (PCMP) that contains the information listed in Provision G.4 of the WDRs. Specifically, the PCMP shall “...reflect current operations and requirements under the WDRs, including MRP R5-2011-0048. The postclosure maintenance and monitoring plan shall meet the requirements of Title 27, section 21769(c) applicable to a closed landfill, including, but not limited to, updated cost estimates for the following:

a. Annual and 30-year

- i. Landfill postclosure maintenance (e.g., cover, drainage controls, LFG extraction system, monitoring systems) per Title 27 section 22212(a); and
- ii. Landfill postclosure corrective action monitoring

b. A lump sum cost estimate for corrective action measures to address known or reasonably foreseeable release per Title 27 section 22222.

Copies of the updated PCMP shall also be provided to CalRecycle and the LEA.”

6. By **31 December 2015**, the Discharger shall comply with Provision G.5 of the WDRs. Specifically, the Discharger shall “obtain and maintain assurances of financial responsibility for post-closure maintenance (including monitoring) and corrective action for the landfill in at least the amount of cost estimates submitted under [WDR] Provision G.4 above. The financial assurance mechanism for each shall be an irrevocable fund or other acceptable mechanism under CalRecycle-promulgated sections of Chapter 6, Title 27, but with the Central Valley Water Board designated as beneficiary.”

7. By **31 December 2015** and **every two years** thereafter (or earlier if requested by the Executive Officer), the Discharger shall submit the report required by Provision G.6 of the WDRs. Specifically, the Discharger shall: “submit for the Executive Officer’s review and approval a report as to the status of the above-required financial assurances. The report shall identify the following:

- a. Required financial assurances for the facility, including type and current amounts, as escalated;
- b. Financial assurance instrument(s) or mechanism(s) and corresponding amounts provided to satisfy the required financial assurances;
- c. Validity and ongoing viability of the above financial assurance mechanism(s), including any needed changes. This demonstration shall include evidence that the required financial assurance mechanisms satisfy the CalRecycle promulgated sections of Title 27, Chapter 6.”

8. By **31 March 2016**, the Discharger shall comply with Provision G.7 of the WDRs and shall “submit a report that includes the following items under Title 27:

- a. Pursuant to Section 20415(e)(7)(B), a technical report proposing statistical and nonstatistical data analysis methods for background, detection, and corrective action

monitoring (including associated evaluation monitoring) consistent with Title 27 requirements and the monitoring specifications of this Order.

- b. Pursuant to Section 20390, an updated WQPS Report, including an updated list of COCs, CLs, Monitoring and Compliance Points, and the Compliance Period consistent with Title 27 requirements and the monitoring specifications of this Order.
- c. Pursuant to Section 20430, a Corrective Action Plan, including a revised Evaluation Monitoring Plan, with plans and implementation schedules for:
  - i. Surveying of all groundwater monitoring wells for the facility.
  - ii. Installation of additional monitoring wells, onsite and/or offsite, as necessary, to adequately characterize the direction of groundwater flow at the site.
  - iii. Installation of additional monitoring wells, as necessary, to adequately define the extent of groundwater impacts, including the following:
    - 1) Laterally and vertically;
    - 2) Onsite and offsite; and
    - 3) Upgradient and downgradient.
  - iv. Investigation as to the source(s), and transmission media for, waste constituents causing groundwater impacts at the site, including, but not necessarily limited to, the following:
    - 1) Wastes historically discharged to the landfill or used or generated in site operations;
    - 2) Landfill leachate, LFG, and soil gas;
    - 3) Onsite soil, including any potential wastes or waste residues outside of the landfill unit;
    - 4) Soil pore fluid, groundwater, surface water, and storm water;
    - 5) Any old wells that could be potentially serve as conduits to groundwater (see Facility Specification D.5), including, but not necessarily limited to, those described in Finding 33.
    - 6) Other potential sources (onsite and/or offsite) other than the landfill that may be causing or contributing to groundwater impacts at the site (i.e., to demonstrate the extent to which the landfill may not be the cause of those impacts).
  - v. Investigation as to whether (and the extent to which) there are, or may be, discharges to the landfill site to surface water (e.g., leachate, storm water, litter) in violation of these WDRs (e.g., Discharge Prohibition A.3.d, Postclosure Specifications C.7.d and C.8).

Since the landfill is in corrective action under Section 20430, the revised Evaluation Monitoring Plan need not be implemented within the prescribed timeline under Section 20425.”

9. By **31 May 2016**, the Discharger shall comply with Provision G.8 of the WDRs. Specifically, “pursuant to Section 20430, submit an amended RWD for a revised CAP, including the following information:

- a. Evaluation Monitoring Plan Report -- The results of the Evaluation Monitoring Plan investigation implemented under Provision G.7 of the WDRs.
  - b. Evaluation of Corrective Action Measures -- A discussion of as to the effectiveness and sufficiency of previous corrective action measures implemented at the site. This discussion may reference any current information in monitoring reports submitted under the MRP.
  - c. Engineering Feasibility Study (EFS) -- A detailed discussion of corrective action needs and options for all monitored media at the site, including groundwater, the unsaturated zone, and surface water. The discussion shall include, but not necessarily be limited to, the need for the following:
    - i. LFG extraction (active or passive)
    - ii. Soil gas control
    - iii. Groundwater remediation;
    - iv. Storm water treatment and best management practices
    - v. Re-routing of natural stream around storm water pond.
  - d. Amended CAP -- Proposed corrective action measures for addressing impacts, potential impacts, and/or WDR compliance issues related to the monitored media in G.8.c above.
  - e. Monitoring Plan -- A plan to monitor the release and progress of corrective action measures consistent with the MRP.
  - f. Cost estimates for implementing additional corrective action, including monitoring.
  - g. An implementation schedule.”
10. **By 1 February 2017, and by 1 February of every year thereafter**, the Discharger shall submit a *Notification of Consultant* technical report containing the name, contact information, and registration number of the Professional Engineer or Registered Geologist who has been retained to complete the two monitoring reports for the coming year, and any technical reports required by the Board. The *Notification* report shall clearly show that the professional has been retained to complete the monitoring and technical reports.

As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, all reports shall be prepared by, or under the supervision of, a California Registered Engineer or Professional Geologist and signed by the registered professional.

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.”*



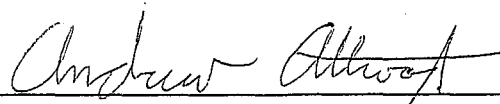
If the Discharger is unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Assistant Executive Officer, the Discharger may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and prior to the compliance date. An extension may be granted by revision of this Order or by a letter from the Assistant Executive Officer.

If 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 or may issue a complaint for administrative civil liability. Failure to comply with this Order may result in the assessment of administrative civil liability up to \$10,000 per violation per day, pursuant to the. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law. Water Code sections 13268, 13350, and/or 13385

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 of this Order, except that if the thirtieth day following the date of this Order 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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

This Order is effective upon the date of signature.

  
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Andrew Altevogt, Assistant Executive Officer

8/26/15

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(Date)