

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2007-0017

AUTHORIZING ATTORNEY GENERAL REFERRAL
PURSUANT TO WATER CODE SECTION 13350
REGARDING RIVER HIGHLANDS COMMUNITY SERVICES DISTRICT AND
GOLD VILLAGE LAND DEVELOPMENT LLC,
HAMMONTON GOLD VILLAGE WASTEWATER TREATMENT PLANT, YUBA COUNTY

The California Regional Water Quality Control Board, Central Valley Region (hereafter Regional Water Board), finds:

1. On 7 June 2002, the Regional Water Board adopted Waste Discharge Requirements Order No. R5-2002-0101 (NPDES No. CA0081574) (NPDES permit) for the River Highlands Community Services District's Hammonton Gold Village Wastewater Treatment Plant. The plant serves the Hammonton Gold Village community. The NPDES permit authorizes discharges of treated effluent to Sanford Creek or to land irrigation. Because the CSD could not immediately comply with effluent limitations for some constituents, the Regional Water Board also issued Cease and Desist Order No. R5-2002-0102 (CDO), which includes a time schedule for compliance with those limitations.
2. The treatment plant is in Section 33, T16N, R6E, MDB&M, APN 006220073000, on property owned by Gold Village Land Development, LLC. The River Highlands Community Services District and Gold Village Land Development LLC are hereafter referred to individually or jointly as the Discharger.
3. On 19 October 2006, the District notified the Regional Water Board that the aeration tank at the treatment plant had cracked, causing a failure of the entire treatment plant, and that raw sewage entering the facility was bypassing the treatment units and being pumped into the effluent holding pond after being treated with chlorine tablets. Staff inspected the facility on 23 October 2006, and found that the failure of the plant had occurred, the facility was poorly operated and maintained, and that numerous violations of the NPDES permit and CDO were on going, including violations of time schedules to upgrade the facility to meet permit requirements.
4. On 17 November 2006, the Executive Officer issued Cleanup and Abatement Order No. R5-2006-0730 (CAO) to River Highlands Community Services District and to Gold Village Land Development LLC. The CAO required the Discharger to:
 - a. *Immediately cease the discharge of improperly treated wastewater to the land application area and prevent all discharges to surface waters.*
 - b. *Comply forthwith with Discharge Prohibition A.1., A.2., A.3., A.4., Land Discharge Specification C.5., and Standard Provision A.6 of Order No. R5-2002-0101, and cease causing, or threatening to cause, a condition of pollution or nuisance.*

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- c. By 1 December 2006, the River Highlands CSD shall comply with Provision G.19. of Order No R5-2002-0101 regarding transfer of ownership. Additionally, by 8 December 2006, Gold Ridge (sic) Land Development LLC shall apply in writing to the Executive Officer requesting transfer of the Order, as outlined in Provision G.19.*
5. The Discharger has violated CAO No. R5-2006-0730 because discharges of improperly treated wastewater have continued to be applied to the land application area, discharges to surface waters have occurred, the discharges have caused, and threaten to continue to cause, a condition of pollution or nuisance, and Gold Village Land Development, LLC has not applied in writing to the Executive Officer requesting transfer of the Order.
6. California Water Code Section 13350 states, in part:
- (a) Any person who (1) violates any cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of any waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state...except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).*
- (b)(1) Any person who, without regard to intent or negligence, causes or permits any hazardous substance to be discharged in or on any of the waters of the state, except in accordance with waste discharge requirements or other provisions of this division, shall be strictly liable civilly in accordance with subdivision (d) or (e)...*
- (d) The court may impose civil liability either on a daily basis or on a per gallon basis, but not both....*
- (e) The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both.*
7. On 19 December 2006, the State Water Resources Control Board (State Water Board) Division of Financial Assistance, under a standing delegation from the State Water Board, authorized expenditure of \$100,000 from the Cleanup and Abatement

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Account (CAA) to respond to the emergency at the Hammonton Gold Village Wastewater Treatment Plant. It has since determined that the plant is not repairable and needs to be replaced.

8. On 20 February 2007, the State Water Board adopted Resolution No. 2007-0005, which authorized the allocation of \$1,000,000 from the CAA to the County of Yuba, if certain conditions are met, for the design, purchase, and installation of a manufactured treatment plant and to take any other actions necessary to cleanup the waste and abate the effects of the waste resulting from the discharge of raw sewage to land and potentially to surface waters.
9. The Executive Officer of the Regional Water Board, through the Office of Chief Counsel, on 14 December 2006, requested the Attorney General to seek Injunctive Relief and Abatement of Nuisance. In response to the referral, the Attorney General filed a Complaint in Superior Court for the County of Yuba on 22 February 2007, to address these issues.
10. CWC Section 13350(g) requires the Regional Water Board to hold a hearing, with due notice of the hearing given to all affected persons, prior to requesting the Attorney General to petition a court to impose, assess and recover civil liability pursuant to CWC Section 13350. On 15 March 2007, the Regional Water Board held such a hearing in compliance with Section 13350(g), and considered the testimony and evidence offered at the hearing and in the record.
11. This enforcement action is being taken by the Regional Water Board to enforce provisions of the CWC and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) pursuant to Section 15321, Title 14, California Code of Regulations.

THEREFORE, be it resolved that:

1. The Regional Water Board hereby refers this matter to the Attorney General, requesting the Attorney General to petition a court to impose civil liability pursuant to CWC Section 13350(a) and (b), as appropriate, and/or to file such other punitive causes of action and to seek other relief as may be permissible and appropriate.
2. The Regional Water Board directs the Executive Officer to work with the Attorney General to implement this Resolution, and to report on it to the Regional Board Chair.

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I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 15 March 2007.

PAMELA C. CREEDON, Executive Officer