

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ACL ORDER NO. R5-2005-0001

ADMINISTRATIVE CIVIL LIABILITY ORDER
IN THE MATTER OF

MR. NICK PETSAS
LAKE BERRYESSA ENTERPRISES, INC. II
dba PUTAH CREEK RESORT

NAPA COUNTY

This order for Administrative Civil Liability (hereafter Order) is issued to Mr. Nick Petsas and Lake Berryessa Enterprises, Inc. II, dba Putah Creek Resort, (hereafter known as “Discharger”) based on a finding of failure to submit technical reports pursuant to California Water Code (CWC) Section 13267, and based on provisions of CWC Section 13267(b)(1) and Sections 13268(a) and (b), which authorize the imposition of an Administrative Civil Liability.

The California Regional Water Quality Control Board, Central Valley Region, (Regional Board) finds, with respect to the Discharger's acts, or failure to act, the following:

1. The Discharger owns and operates a concession known as the Putah Creek Resort at 7600 Knoxville Road in Napa County. The resort consists of approximately 150 mobile homes, a 27 unit motel, 80 campsites, a store, a restaurant, a boat launch, and dock facilities.
2. The Discharger operates the water supply and wastewater collection, treatment, and disposal systems. The wastewater system consists of three percolation/oxidation ponds that are located in an area near the east 1/4 corner of Section 16, T9N, R4W, MDB&M.
3. Waste Discharge Requirements (WDRs) Order No. 5-00-020, adopted by the Regional Board on 28 January 2000, prescribes requirements for the treatment, storage and disposal of domestic wastewater at the facility.

PREVIOUS ENFORCEMENT

4. The Discharger has had a long history of violations of its WDRs. These violations include lack of submittal of self-monitoring reports and technical reports, wastewater discharges and overflows to Lake Berryessa and surface water drainage courses, and failure to implement system upgrades and measures to ensure compliance with the WDRs.
5. On 13 July 1998, the Executive Officer issued Administrative Civil Liability Complaint (ACLC) No. 98-505 for several wastewater overflows to surface waters and for failure to submit technical and monitoring reports required by Section 13267 of the CWC. The overflows to surface waters were associated with the collection, treatment and disposal system and occurred during the months of January, February, April, May, and June 1998. As a result of the ACLC, the Discharger paid \$10,500 to the State Water Resources Control Board Cleanup and Abatement Account.

6. On 24 December 1998, the Executive Officer issued Cleanup and Abatement Order (CAO) No. 98-736 to address the issues identified in the 13 July 1998 ACLC, as well as the integrity of the berm between Pond Nos. 1, 2, and 3, the headworks (pump house and septic tanks), and the exposed collection pipeline as identified in a 3 December 1998 inspection.
7. The CAO required a series of technical reports leading to the submittal of a Report of Waste Discharge (RWD). Based on that RWD, the Regional Board adopted updated WDRs in January 2000. The WDRs state that the Discharger plans to build a fourth wastewater pond to provide an additional 570,000 gallons of treatment and storage capacity, and that the WDR flow limit is based on this additional pond. However, the Discharger never constructed the fourth pond.
8. On 6 June 2002, the Regional Board adopted ACL Order No. R5-2002-0087 for discharges of wastewater to a surface water drainage course. The discharges to surface waters violated Discharge Prohibition Nos. A.1 and A.2, and Discharge Specifications Nos. B.1 and B.3 of the WDRs Order No. 5-00-020. The Discharger paid \$23,500 to the State Water Resources Control Board Cleanup and Abatement Account.

RECENT VIOLATIONS

9. On 4 February 2004, staff issued a Notice of Violation (NOV) for the non-submittal of groundwater monitoring reports as required by Monitoring and Reporting Program (MRP) No. 5-00-020. The MRP requires the Discharger to develop a system of at least four groundwater monitoring wells to define groundwater impacts from the percolation/oxidation ponds. The NOV required the Discharger to submit a Groundwater Monitoring Workplan by 1 June 2004 and a Well Installation Report by 1 August 2004.
10. On 11 March 2004, staff performed an inspection of the facility and made the following observations: (a) freeboard was between 1.5 and 2 feet in each of the three wastewater ponds, (b) wastewater seepage was observed from the northeast berm of Pond No. 1, and (c) severe erosion was evident along the north embankment of Pond No. 1, and was covered by plastic sheeting.
11. On 12 March 2004, staff issued a NOV for the violation of Discharge Specification Nos. B.3, B.11, and B.15 of the WDRs. The NOV required the Discharger to: (a) perform daily pond freeboard measurements and inspect each of the pond berms for the presence of seepage, (b) submit a Contingency Plan describing steps taken if wastewater encroaches to within two feet of freeboard in any pond, (c) submit a Short-Term Berm Improvement Report describing measures that have been taken to prevent catastrophic failure, as well as seepage and erosion, in the berm surrounding Pond No. 1, and (d), submit a Long-Term Berm Improvement Workplan proposing activities and timelines for permanent repairs to the berm surrounding Pond No. 1, and the berms surrounding Pond Nos. 2 and 3 if necessary.
12. On 22 March 2004, the Discharger began submitting the weekly pond inspection reports, and on 23 March 2004, staff received the Contingency Plan. The Plan stated that the Discharger would

implement the hauling of wastewater only in the event that the freeboard in the ponds decreased to one-foot (note that this plan does not comply with WDRs, as two feet of freeboard is required). The Plan also stated that the berm conditions appear to be the same as when they were repaired in the fall of 1999 as required by CAO No. 98-736, and that a further evaluation would be completed by 16 April 2004.

13. On 16 April 2004, staff received the Short-Term Berm Improvement Plan, which provided a brief summary of actions implemented by the Discharger, including (a) a discussion of slope design with a consultant familiar with the facility's berms, (b) a site visit with the contractor to discuss potential corrective actions, (c) reinstallation of the black sheeting covering the Pond No. 1 embankment, and (d) excavation of the seepage area below Pond No. 1 and the installation of a mortar dam and perforated drain pipe connecting to the overflow piping from Pond No. 1 to Pond No. 2.
14. On 16 May 2004, staff received the Long-Term Berm Improvement Workplan which provided a schedule of tasks which included: (a) the installation of borings in the berms by 1 August, (b) the installation of a bentonite seal around the pipe within the Pond No. 1 berm by 1 August, (c) the evaluation of boring results in regards to berm stability and installation of monitoring wells by 1 September, (d) the installation of vegetative protection mats on the berm of Pond No. 1 by 1 October, and (e), the on-going monitoring the growth of the vegetative mats.
15. On 1 June 2004, staff received a draft Groundwater Monitoring Well Installation Workplan. The document, however, did not actually propose the installation of groundwater monitoring wells, but instead stated that locations of the wells had not been determined because of the substantial amount of bedrock underlying Pond Nos. 1 and 2 and the lack of a groundwater table.
16. On 13 July 2004, staff met with the Discharger to discuss a number of issues. Staff again stated that the Discharger must monitor the groundwater to determine compliance with the Groundwater Limitation of its WDRs. The Discharger indicated that the geologic information obtained during the soil boring investigation would be used to help determine the locations of the groundwater monitoring wells. Staff also stated that the Discharger must submit a formal water balance to determine whether the three ponds provide enough capacity, and if not, then Pond No. 4 must be constructed.
17. On 30 July 2004, the Executive Officer issued a CWC 13267 Order requiring that the Discharger submit the following reports by the following dates: (a) a technical report describing the installation of the vegetative mats on Pond No. 1 berm by 1 September 2004, (b) a water balance that demonstrates whether or not the facility contains adequate storage and disposal capacity to ensure full compliance with the WDRs by 1 September 2004, (c) written documentation that the bentonite seal around the overflow piping in the berm at Pond No. 1 was installed by 1 September 2004, (d) a technical report discussing results of at least four soil borings drilled within/around the Pond No. 1 berm by 30 September 2004, (e) a report describing measures taken to repair the low area in the berm of Pond No. 2 by 15 October 2004, (f) a revised Groundwater Monitoring Well Installation Workplan by 15 October 2004, and (g) if the water balance showed inadequate capacity, then by 15 October 2004, plans and a timeline for increasing the capacity.

18. On 26 August 2004, staff conducted an inspection of the facility and observed the drilling of four soil borings. Staff also noted that a portion of the irrigation piping along the berm between Pond Nos. 1 and 2 was in place; however, the vegetative matting had not been installed.
19. On 10 September 2004, staff sent the Discharger an inspection report. The inspection report also reminded the Discharger that staff had not yet received the three technical reports that were due by 1 September 2004 (as described in Finding No. 17).
20. On 13 September 2004, the Discharger submitted a request to extend the due date for the installation of the vegetative mats on Pond No. 1 berm, and the installation of the bentonite seal around the overflow piping in the berm at Pond No. 1. The Discharger stated that no effort had been made toward the installation of the vegetative mats and that within 30 days following receipt of the technical report discussing the results of the soil borings, or by 15 October 2004, that the mats would be installed. In addition, the Discharger stated that since the overflow piping was currently above the pond water line that no seepage would occur under current conditions and if the wastewater increased above the overflow piping then a perforated pipeline would intercept any seepage from the pond and redirect that seepage through a closed pipe into Pond No.1. Based on this, the Discharger stated that there was no urgency of installing the bentonite seal. Staff verbally told the Discharger's consultant that an extension for submittal of the reports was not warranted. The Discharger submitted the required water balance; however staff determined it to be incomplete. On 18 October 2004, staff informed the Discharger's consultant that the water balance was incomplete and needed to be resubmitted as soon as possible. It has not been received to date.
21. In violation of the CWC 13267 Order, the Discharger has failed to submit the following reports: (a) the report describing the installation of the vegetative mats on the berm of Pond No. 1, (b) written documentation that the bentonite seal around the overflow piping in the berm at Pond No. 1 was installed, (c) the report describing measures taken to repair the low area in the berm of Pond No. 2, and (d) the Revised Groundwater Monitoring Well Installation Workplan. In violation of the CWC 13267 Order, the Discharger submitted the report discussing results of the soil borings drilled within/around the Pond No. 1 berm 41 days late. These reports are necessary to ensure that the wastewater ponds do not overflow and that the waste is disposed in accordance with WDRs Order No. 5-00-020.

REGULATORY CONSIDERATIONS

22. By the acts and omissions cited above, the Discharger has violated the Executive Officer's CWC Section 13267 Order. CWC Section 13267 (b)(1) reads, in part, as follows: "...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, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste outside of its region that could affect the quality of waters within its region, shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires...."

23. CWC Section 13268 (a) states: “Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).”
24. CWC Section 13268(b)(1) states: “Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.”
25. CWC Section 13327 states: “In determining the amount of civil liability, the regional board ... shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.”
26. CWC Section 13268(b)(1) authorizes Administrative Civil Liability not exceeding one thousand dollars (\$1,000) for each day of failure to submit technical reports as required by subdivision (b) of Section 13267. As of 3 December 2004, the Discharger has failed to submit the following:
 - a. The technical report describing the installation of the vegetative mats on the berm of Pond No. 1 (due on 1 September 2004);
 - b. Written documentation that the bentonite seal around the overflow piping in the berm at Pond No. 1 was installed (due on 1 September 2004);
 - c. The technical report discussing results of at least four soil borings drilled within/around the Pond No. 1 berm (due on 30 September 2004; submitted on 19 November 2004);
 - d. The report describing measures taken to repair the low area in the berm of Pond No. 2 (due on 15 October 2004); and
 - e. The revised Groundwater Monitoring Well Installation Workplan (due on 15 October 2004).
27. As of 3 December 2004:
 - a. The technical report describing the installation of the vegetative mats on the berm of Pond No. 1 is 85 days late;
 - b. The written documentation that the bentonite seal around the overflow piping in the berm at Pond No. 1 is 85 days late;
 - c. The technical report discussing the results of soil borings drilled within/around the Pond No. 1 berm is 41 days late;
 - d. The report describing measures taken to repair the low area in the berm of Pond No. 2 is 40 days late; and
 - e. The Revised Groundwater Monitoring Well Installation Workplan is 40 days late.

28. The maximum liability for the nonsubmittal of these technical reports is two hundred and ninety one thousand dollars (\$291,000). No minimum liability is required to be imposed under Section 13268(b)(1).
29. The Regional Board determined, with respect to the factors in Finding No. 25, the following:

The nature of the violation is that the Discharger was required, pursuant to CWC Section 13267, to submit five technical reports. These reports are necessary to show that the Discharger has made several improvements to its wastewater storage ponds, to describe whether the berm on Pond No. 1 is stable, and to propose the installation of groundwater monitoring wells to determine whether the discharge complies with the Groundwater Limitation. The circumstances are such that the Discharger was aware of the necessity to provide the required technical reports, but failed to do so.

The extent of the violation is that the Discharger has not submitted the five technical reports. As of 3 December 2004, these reports will be a cumulative total of 291 days late.

The gravity of the violation is that (a) failure to install the vegetative mats on the berm of Pond No. 1 will allow the berm to continue to erode and possibly fail, (b) failure to install the bentonite seal around the overflow pipe will allow wastewater to continue to seep out of Pond No. 1, (c) the late submittal of the results of the soil borings, (d) failure to repair the low area in berm of Pond No. 2 results in less storage capacity and the possibility of wastewater overflows, and (e) failure to submit a groundwater monitoring well installation workplan and construct groundwater monitoring wells has prevented staff from evaluating whether the discharge of waste to these evaporation/percolation ponds is degrading the groundwater.

With respect to voluntary cleanup efforts, this ACL Order addresses failure to submit technical reports and, therefore, this factor is not relevant. However, the Discharger is required to submit technical reports to comply with waste discharge requirements in order to avoid additional discharges of waste.

With respect to the violator, it has not been demonstrated that there is an inability to pay or to continue in business. The Discharger had the opportunity to provide such information according to the notice of public hearing.

The Discharger has received an economic savings by the late submittal or nonsubmittal of the five technical reports, in that it has delayed the necessary improvements to the wastewater treatment system. The actual economic benefit would be considered the interest saved on any loans taken out to complete the work or pay the consultant. This interest amount is estimated to be no more than \$500.

The Discharger has a long history of violations at this facility, and has been previously issued a \$10,500 ACL Complaint (July 1998), a Cleanup and Abatement Order (December 1998), and a \$23,500 ACL Order (June 2002).

The Discharger is responsible for the submittal of the five technical reports and is culpable for the violations cited.

Staff expended approximately 60 hours, or \$4,800, in generation of the ACL Complaint, including site inspections and review of files. It is estimated that staff will spend an additional 60 hours (an additional \$4,800) to prepare this ACL Order and to prepare for the Board hearing.

30. A \$15,000 Administrative Civil Liability is appropriate based on the determinations in Findings Nos. 26 through 29.
31. On 3 December 2004, the Regional Board held a panel hearing to accept testimony regarding the proposed ACL Order for Mr. Nick Petsas and Lake Berryessa Enterprises, Inc. II, dba Putah Creek Resort (Discharger). The panel hearing was result of the Regional Board's lack of a full quorum. Following testimony by staff and the Discharger's representatives, the Panel stated that it would recommend that the administrative civil liability be increased from \$15,000 to \$30,000, and includes an additional \$9,600 to cover staff costs. The Panel also stated that it would recommend that if the work required by the 30 July 2004 California Water Code 13267 Order was completed by 1 June 2005, then \$10,000 would be waived. This ACL Order is only for those violations prior to the 3 December 2004 panel hearing.
32. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et. seq.), in accordance with Section 15321 (a)(2), Title 14, of the California Code of Regulations.
33. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with Section 2050 through 2068, Title 23, California Code of Regulations. The petition must be received by the State Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions are available at http://www.swrcb.ca.gov/water_laws/cawtrcde/wqpetition_instr.html and will also be provided upon request.

IT IS HEREBY ORDERED that the Regional Water Quality Control Board, Central Valley Region, imposes upon Mr. Nick Petsas and Lake Berryessa Enterprises, Inc. II, dba Putah Creek Resort administrative civil liability in the amount of **\$29,600** in accordance with California Water Code Section 13268 and Section 13323. Payment of \$29,600 shall be made within 30 days of the date of this Order, and shall be in the form of a certified check made payable to the *State Water Resources Control Board Cleanup and Abatement Account*. The check shall have written upon it the number of this Order.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 27 January 2005.

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2005-0001
MR. NICK PETSAS , LAKE BERRYESSA ENTERPRISES, INC. II
dba PUTAH CREEK RESORT
NAPA COUNTY

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THOMAS R. PINKOS, Executive Officer

27 January 2005

(Date)

AMENDED

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
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RECENT VIOLATIONS

9. On 4 February 2004, staff issued a Notice of Violation (NOV) for the non-submittal of groundwater monitoring reports as required by Monitoring and Reporting Program (MRP) No. 5-00-020. The MRP requires the Discharger to develop a system of at least four groundwater monitoring wells to define groundwater impacts from the percolation/oxidation ponds. The NOV required the Discharger to submit a Groundwater Monitoring Workplan by 1 June 2004 and a Well Installation Report by 1 August 2004.
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21. In violation of the CWC 13267 Order, the Discharger has failed to submit the following reports: (a) the report describing the installation of the vegetative mats on the berm of Pond No. 1, (b) written documentation that the bentonite seal around the overflow piping in the berm at Pond No. 1 was installed, (c) the report describing measures taken to repair the low area in the berm of Pond No. 2, and (d) the Revised Groundwater Monitoring Well Installation Workplan. In violation of the CWC 13267 Order, the Discharger submitted the report discussing results of the soil borings drilled within/around the Pond No. 1 berm 41 days late. These reports are necessary to ensure that the wastewater ponds do not overflow and that the waste is disposed in accordance with WDRs Order No. 5-00-020.

REGULATORY CONSIDERATIONS

22. By the acts and omissions cited above, the Discharger has violated the Executive Officer's CWC Section 13267 Order. CWC Section 13267 (b)(1) reads, in part, as follows: "...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, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste outside of its region that could affect the quality of waters within its region, shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires...."

23. CWC Section 13268 (a) states: “Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).”
24. CWC Section 13268(b)(1) states: “Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.”
25. CWC Section 13327 states: “In determining the amount of civil liability, the regional board ... shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.”
26. CWC Section 13268(b)(1) authorizes Administrative Civil Liability not exceeding one thousand dollars (\$1,000) for each day of failure to submit technical reports as required by subdivision (b) of Section 13267. As of 3 December 2004, the Discharger has failed to submit the following:
 - a. The technical report describing the installation of the vegetative mats on the berm of Pond No. 1 (due on 1 September 2004);
 - b. Written documentation that the bentonite seal around the overflow piping in the berm at Pond No. 1 was installed (due on 1 September 2004);
 - c. The technical report discussing results of at least four soil borings drilled within/around the Pond No. 1 berm (due on 30 September 2004; submitted on 19 November 2004);
 - d. The report describing measures taken to repair the low area in the berm of Pond No. 2 (due on 15 October 2004); and
 - e. The revised Groundwater Monitoring Well Installation Workplan (due on 15 October 2004).
27. As of 3 December 2004:
 - a. The technical report describing the installation of the vegetative mats on the berm of Pond No. 1 is 85 days late;
 - b. The written documentation that the bentonite seal around the overflow piping in the berm at Pond No. 1 is 85 days late;
 - c. The technical report discussing the results of soil borings drilled within/around the Pond No. 1 berm is 41 days late;
 - d. The report describing measures taken to repair the low area in the berm of Pond No. 2 is 40 days late; and
 - e. The Revised Groundwater Monitoring Well Installation Workplan is 40 days late.

28. The maximum liability for the nonsubmittal of these technical reports is two hundred and ninety one thousand dollars (\$291,000). No minimum liability is required to be imposed under Section 13268(b)(1).
29. The Regional Board determined, with respect to the factors in Finding No. 25, the following:

The nature of the violation is that the Discharger was required, pursuant to CWC Section 13267, to submit five technical reports. These reports are necessary to show that the Discharger has made several improvements to its wastewater storage ponds, to describe whether the berm on Pond No. 1 is stable, and to propose the installation of groundwater monitoring wells to determine whether the discharge complies with the Groundwater Limitation. The circumstances are such that the Discharger was aware of the necessity to provide the required technical reports, but failed to do so.

The extent of the violation is that the Discharger has not submitted the five technical reports. As of 3 December 2004, these reports will be a cumulative total of 291 days late.

The gravity of the violation is that (a) failure to install the vegetative mats on the berm of Pond No. 1 will allow the berm to continue to erode and possibly fail, (b) failure to install the bentonite seal around the overflow pipe will allow wastewater to continue to seep out of Pond No. 1, (c) the late submittal of the results of the soil borings, (d) failure to repair the low area in berm of Pond No. 2 results in less storage capacity and the possibility of wastewater overflows, and (e) failure to submit a groundwater monitoring well installation workplan and construct groundwater monitoring wells has prevented staff from evaluating whether the discharge of waste to these evaporation/percolation ponds is degrading the groundwater.

With respect to voluntary cleanup efforts, this ACL Order addresses failure to submit technical reports and, therefore, this factor is not relevant. However, the Discharger is required to submit technical reports to comply with waste discharge requirements in order to avoid additional discharges of waste.

With respect to the violator, it has not been demonstrated that there is an inability to pay or to continue in buisness. The Discharger had the opportunity to provide such information according to the notice of public hearing.

The Discharger has received an economic savings by the late submittal or nonsubmittal of the five technical reports, in that it has delayed the necessary improvements to the wastewater treatment system. The actual economic benefit would be considered the interest saved on any loans taken out to complete the work or pay the consultant. This interest amount is estimated to be no more than \$500.

The Discharger has a long history of violations at this facility, and has been previously issued a \$10,500 ACL Complaint (July 1998), a Cleanup and Abatement Order (December 1998), and a \$23,500 ACL Order (June 2002).

The Discharger is responsible for the submittal of the five technical reports and is culpable for the violations cited.

Staff expended approximately 60 hours, or \$4,800, in generation of the ACL Complaint, including site inspections and review of files. It is estimated that staff will spend an additional 60 hours (an additional \$4,800) to prepare this ACL Order and to prepare for the Board hearing.

30. A \$15,000 Administrative Civil Liability is appropriate based on the determinations in Findings Nos. 26 through 29.
31. On 3 December 2004, the Regional Board held a panel hearing to accept testimony regarding the proposed ACL Order for Mr. Nick Petsas and Lake Berryessa Enterprises, Inc. II, dba Putah Creek Resort (Discharger). The panel hearing was result of the Regional Board's lack of a full quorum. Following testimony by staff and the Discharger's representatives, the Panel stated that it would recommend that the administrative civil liability be increased from \$15,000 to \$30,000, and includes an additional \$9,600 to cover staff costs. The Panel also stated that it would recommend that if the work required by the 30 July 2004 California Water Code 13267 Order was completed by 1 June 2005, then \$10,000 would be waived. This ACL Order is only for those violations prior to the 3 December 2004 panel hearing.
32. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et. seq.), in accordance with Section 15321 (a)(2), Title 14, of the California Code of Regulations.
33. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with Section 2050 through 2068, Title 23, California Code of Regulations. The petition must be received by the State Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions are available at http://www.swrcb.ca.gov/water_laws/cawtrcde/wqpetition_instr.html and will also be provided upon request.

IT IS HEREBY ORDERED that the Regional Water Quality Control Board, Central Valley Region, imposes upon Mr. Nick Petsas and Lake Berryessa Enterprises, Inc. II, dba Putah Creek Resort administrative civil liability in the amount of **\$29,600** in accordance with California Water Code Section 13268 and Section 13323. Payment of \$29,600 shall be made within 30 days of the date of this Order, and shall be in the form of a certified check made payable to the *State Water Resources Control Board Cleanup and Abatement Account*. The check shall have written upon it the number of this Order.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 27 January 2005.

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2005-0001
MR. NICK PETSAS , LAKE BERRYESSA ENTERPRISES, INC. II
dba PUTAH CREEK RESORT
NAPA COUNTY

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THOMAS R. PINKOS, Executive Officer

27 January 2005

(Date)

AMENDED