

---

# CSI NEWS

---

Celly Services Inc.

Vol. 6 • No. 1 • March 1999

---

## **Lawsuit Over Wash Water Discharge**

A few weeks ago auto dealers in Orange County received a summons from Superior Court regarding improper wastewater disposal of wash water from pressure washing and steam cleaning to storm drains. This newsletter summarizes the issues involved and the steps the dealers must take to ensure environmental compliance. The legal remedy to the summons, though, is best handled by contacting the dealership's insurance carrier. Typically, the insurance carrier will appoint counsel to represent the dealership. To ensure continued environmental compliance, the dealership must ensure proper disposal of wastewater from the shop area.

Wastewater from the shop area comes from mopping shop floors, steam cleaning equipment, and washing automobiles and their engines. The wastewater from these sources often contains oil, grease, soap, and cleansers used to detail the automobiles. The wastewater from the shop must be treated in a clarifier before being discharged to the sanitary sewer. The Orange County Sanitation Districts operate the sanitary sewage system and set limits on the levels of oil, grease, and other contaminants entering their sewers. The clarifier must be able to reduce the levels of oil, grease, and suspended solids, such as soil, to levels acceptable to the County. The Districts also limit the levels of heavy metals and solvents that may be discharged to the sewer. The potential for heavy metals in wastewater from automobile dealerships is remote. The purpose of limiting oil, grease, and solvents is to avoid overloading the bacteria treating the wastewater at the sewage treatment plant. Heavy metals in wastewater can upset the system at the plant and may force it to shut down.

Wastewater from shop areas must not be discharged to storm drains. Storm drains are located on the city streets and sometimes on the premises. Storm drains typically drain rainwater directly to the ocean without any treatment. Contaminants such as oil, grease, solvents, or heavy metals in the storm water can damage or destroy ecosystems. Any automobile washing with soap or other hazardous materials outdoors where the water flows to the city street may bring enforcement action.

The enforcement action may be based on a variety of environmental statutes. The most commonly used statute by prosecutorial agencies here in California is the Fish and Game Code. The FGC prohibits discharge to the waters of the state any petroleum or material deleterious to fish, plant, or bird life. With such broad language, literally, any hazardous substance discharged to the storm drain can trigger an enforcement action. Compliance is achieved by limiting all wastewater discharges to the sanitary sewer system via the clarifier. The sanitary sewer system also is designed to accept the wastewater from restrooms and kitchens. The dealership should continue to discharge wastewater from restrooms, lavatories, and food preparation areas directly to the sanitary sewer.

Referring to the summons from the Orange County Superior Court, the basis of the complaint is that environmental damage has occurred as a result of improper discharge of wastewater from pressure washing and steam cleaning to storm drains. Also, the wastewater from steam cleaning may be exceeding the limits set by the Sanitation Districts (Ordinance No. OCSD-01). This regulation, along with others, limits the concentration of oil and grease to 100 mg/L and temperature to 140°F for wastewater discharged to the sanitary sewer. Further, the complaint alleges that such improper discharge occurred after Ms.

Tillery's services were terminated at the dealership, and the dealership either chose to do business with a less expensive entity or do the work in-house. The complaints of Ms. Tillery and Mr. Gould are not new. The Orange County Register ran a story in July 1998 on Ms. Tillery's efforts to seek a cleaner environment and seek compliance from dealers who may be in violation of environmental statutes. The story is available on the Orange County Register web page [www.ocregister.com](http://www.ocregister.com).

Ms. Tillery seeks relief in the form of civil penalties in the amount of \$2,500 per day, injunction enjoining dealers or their agents from discharging wastewater into storm drains, and disposal of wastewater from steam cleaning into the sanitary sewer system amongst other civil remedies. The aspect of enjoining dealers from wastewater discharge from steam cleaning activities merits further discussion.

We are of the opinion that discharging steam cleaning wastewater to sanitary sewers may not be violating the sanitation districts rules. However, the dealership will have to prove compliance in the event of a regulatory agency audit. Proving compliance should be fairly straightforward. Wastewater from steam cleaning should be less than 140°F before it enters the sewer system. We believe it would be less than 140°F by the time it hits the ground and definitely after it passes through a 1500-gallon fluid chamber (clarifier) submerged in cooler soil. Vis-à-vis compliance with the oil and grease limit of 100 mg/L could be tricky. While relatively clean clarifiers would limit the discharge to sanitary sewer to 100 mg/L of oil and grease, a dirty clarifier may not. So, to ensure compliance, keep your clarifiers clean. (See box on this page)

Again, an attorney appointed by the dealership or their insurance carrier must answer the summons. Depending upon the evidence and detailed legal analysis, a settlement may be reached.

**Continued environmental compliance for the dealerships can be summarized as follows:**

- Limit vehicle washing to the wash rack
- Ensure all wastewater is discharged through a clarifier to the sanitary sewer operated by the Orange County Sanitation Districts
- Clean the clarifier periodically to maintain its efficiency.
- Keep the concentration of oil and grease to less than 100 mg/L in the wastewater discharged to the sanitary sewer.

Please feel free to call CSI EHS Services, Inc. to discuss this or other issues with the engineering staff at (800) 989-4544 or (562) 624-1103.

Dealers may contact Kevin Allen at the Orange County Auto Dealers Association for further information regarding this matter.

**Celly Services Inc.**

**Main Office - Long Beach, CA**

**Idaho Office - Hailey, ID**

The *CSI News* is a periodic publication of CSI and should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are for general information purposes only. For further information about these contents, please contact your CSI Engineer.