

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

**AMENDED TIME SCHEDULE ORDER NO. R4-2021-0015
REQUIRING BURBANK WATER AND POWER**

**TO COMPLY WITH REQUIREMENTS PRESCRIBED IN THE GENERAL PERMIT
FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES
AMENDED NOVEMBER 6, 2018, AND EFFECTIVE JULY 1, 2020
(NPDES PERMIT No. CAS000001)
WDID NO. 4 19I000949**

The California Regional Water Quality Control Board, Los Angeles Region (Regional Water Board) finds:

1. The Burbank Water and Power facility and Magnolia Power Plant (together, Facility), located at 164 West Magnolia Boulevard in Burbank, California is owned by the City of Burbank and operated by Burbank Water and Power (BWP). The Facility encompasses a total area of approximately 22.5 acres. Historically, Burbank Water and Power facility and the Magnolia Power Plant each were enrolled with individual coverage under the State's General Permit for Storm Water Discharges Associated with Industrial Activity (General Permit). However, because BWP operates the Burbank Water and Power facility and Magnolia Power Plant, the Facility shares the same location and a common stormwater discharge system, therefore, the two WDID numbers were consolidated into one, WDID No. 4 19I000949, on January 20, 2022. This Amended Time Schedule Order (Amended TSO) conjoins TSO Order No. R4-2021-0015 and TSO Order No. R4-2021-0016. The previous TSOs issued for each WDID were substantively similar.
2. The Facility is an industrial operation that is required to have coverage under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, amended on November 6, 2018, and effective on July 1, 2020 (Amended General Permit). The Amended General Permit also serves as a permit under the National Pollutant Discharge Elimination System program, NPDES Permit No. CAS000001. BWP is the municipal utility for the City of Burbank. BWP supplies power, water, and broadband services to households and businesses in Burbank, California. BWP has a Standard Industrial Classification (SIC) code of 4911-Electric Services. This SIC code is listed as requiring permit coverage in Attachment A to the Amended General Permit.

3. The Amended General Permit establishes numeric effluent limitations (NELs) for facilities that discharge stormwater associated with industrial activities into water bodies that have certain approved Total Maximum Daily Loads (TMDLs) and that have waste load allocations for industrial stormwater discharges as set forth in Attachment E to the Amended General Permit. The NELs are numerical limits, an exceedance of which is a violation of the Amended General Permit and require dischargers to limit the concentration of pollutants in their stormwater discharges to protect water quality.
4. Stormwater runoff from the Facility discharges to the Burbank Western Channel, which flows into Reach 4 of the Los Angeles River.
5. The NELs that apply to industrial discharges from the Facility include total cadmium, total copper, total lead, total zinc, nitrate nitrogen, nitrite nitrogen, nitrate plus nitrite nitrogen and ammonia. These NELs are new and more stringent than the prior regulatory requirements in the previous General Permit. These NELs became effective on July 1, 2020, and exceedances of the NELs will result in mandatory minimum penalties pursuant to California Water Code (Water Code) section 13385, subdivisions (h) and (i).
6. BWP has completed a pollutant source assessment of those pollutants identified in the Storm Water Pollution Prevention Plan (SWPPP) for the Facility to assess their potential to exceed NELs in the Amended General Permit prior to full implementation of the BWP Stormwater Improvement Project (Project). According to that analysis, BWP only identified total zinc and total copper as associated with industrial activity at the Facility that may exceed the NELs set forth in the Amended General Permit.
7. BWP is expected to exceed the NELs for total zinc and total copper based on historical monitoring data reported to the State's online Stormwater Multiple Application and Report Tracking System (SMARTS) database. The NELs and the corresponding concentrations of these pollutants in the discharge from the Facility have been reported to be:

Pollutant	Reported Concentration Range in mg/L	Numeric Effluent Limit in mg/L
Total zinc	0.25-1.8	0.159
Total copper	0.011-0.15	0.06749

8. BWP will require additional pollutant control measures to comply with the applicable NELs listed in the Amended General Permit.

9. The Amended General Permit provides alternative on-site compliance options for facilities that exceed or expect to exceed the NELs (see Attachment I of the Amended General Permit). These compliance options include capture and diversion of the volume of stormwater associated with industrial activities that results from the 85th percentile, 24-hour storm to the sanitary sewer, or capture and infiltration of the volume of stormwater associated with industrial activities that results from the 85th percentile, 24-hour storm, or elimination of exposure of industrial activities to stormwater, or capture the volume of stormwater from the maximum historic precipitation event.
10. BWP implements the following Best Management Practices (BMPs) at the Facility to help minimize pollutants in stormwater discharge: good housekeeping measures to keep the facility clean and prevent material tracking and minimize dust generation, preventative maintenance, plans to address a spill and leak prevention and response, material handling and storage procedures, and employee training. BWP also implements storm resistant shelters to minimize exposure of industrial material to stormwater.
11. BWP has been in the process of implementing the Project for several years, which is a major system improvement project designed to address excess metals concentrations in stormwater discharges. There are two major components to this Project. BWP is re-routing the city-owned stormwater line which commingles stormwater at the Facility with off-site commercial and industrial areas prior to discharge to the Burbank Western Channel. This Project includes re-routing this line to eliminate the co-mingling of stormwater at BWP with non-site related stormwater and to reduce the volume of stormwater that will need to be collected for reuse and infiltration.

The second component of this Project is the installation of an on-site stormwater capture, retention, reuse, and infiltration system designed to meet the 85th percentile, 24-hour storm daily standard as described in Attachment I to the Amended General Permit. This system was designed based on a feasibility evaluation, taking into consideration the Facility's existing stormwater infrastructure, site hydrology, desired metals reduction, available space and options for stormwater retention systems. These modifications could not be designed, installed, or put into operation prior to July 1, 2020, due to the time needed to properly implement the proposed system.

12. Per Water Code section 13385 subdivision (j)(3)(C)(iii)(I), if a time schedule exceeds one year from the effective date of the TSO, the schedule must include interim requirements that include effluent limitations for the pollutant of concern.

Because this Order ends on March 28, 2025, consistent with Water Code section 13385, interim effluent limits are included for total zinc and total copper.

13. BWP has developed and updated a facility specific SWPPP that is currently being implemented and complies with the monitoring and reporting requirements of the Amended General Permit. The facility specific SWPPP dated January 13, 2022 has been submitted electronically to the SMARTS database.
14. Water Code section 13300 states: “Whenever a regional board finds that a discharge of waste is taking place or threatening to take place that violates or will violate requirements prescribed by the regional board, or the state board, or that the waste collection, treatment, or disposal facilities of a discharger are approaching capacity, the board may require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a violation of requirements.”
15. Water Code section 13385, subdivisions (h) and (i), require the Regional Water Board to impose mandatory minimum penalties when dischargers violate effluent limitations in NPDES permits. Water Code section 13385 subdivision (j)(3) allows the Regional Water Board to exempt certain facilities from mandatory minimum penalties “when there are exceedances of NELs if the facility is in compliance with a time schedule order issued pursuant to Section 13300 if all of the [specified] requirements are met.”
16. Water Code section 13385, subdivision (j)(3)(B)(i), allows the Regional Water Board to issue a Time Schedule Order (TSO) if the “regional board finds that... the discharger is not able to consistently comply with one or more of the effluent limitations established in the waste discharge requirements” if the “effluent limitation is a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000, new or modified control measures are necessary in order to comply with the effluent limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.”
17. Prerequisites to issuing a TSO include those set forth in Water Code section 13385 subdivisions (j)(3)(C)(i), (j)(3)(C)(iii), and (j)(3)(D):

The TSO must establish “a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible, taking into account the technological, operational, and economic factors that affect design,

development and implementation of the control measures that are necessary to comply with the effluent limitation.” (Wat. Code § 13385, subd. (j)(3)(C)(i).) The TSO shall not exceed five years in length unless an extension is granted in accordance with Water Code section 13385, subdivision (j)(3)(C). If the time schedule exceeds one year from the effective date of the order, the schedule shall include interim requirements and the dates for their achievement. The interim requirements shall include both (I) Effluent limitations for the pollutant or pollutants of concern. (II) Actions and milestones leading to compliance with the effluent limitation. (Wat. Code § 13385, subd. (j)(3)(C)(iii).) The discharger must “[have] prepared and [be] implementing in a timely and proper manner, or [be] required by the regional board to prepare and implement, a pollution prevention plan pursuant to section 13263.3.” (Wat. Code § 13385, subd. (j)(3)(D).)

18. The Regional Water Board issues this TSO to BWP based on all the findings set forth herein.
19. The time schedule set forth herein ends on March 28, 2025. This date does not exceed 5 years.
20. Pursuant to Water Code section 13385, subdivision (j)(3), full compliance with the requirements of this TSO exempts BWP from mandatory minimum penalties (MMPs) only for violations of the NELs for total zinc and total copper that occur after the effective date of this TSO until the expiration date of this TSO. If an interim effluent limitation contained in this TSO is exceeded, BWP may be subject to enforcement action. An exceedance of the interim effluent limitation for the purpose of this TSO is defined as when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceed the interim effluent limitation. In addition, if BWP does not implement its SWPPP or comply with the time schedule in this Order, BWP may be subject to enforcement action.
21. All technical and monitoring reports required under this TSO are required pursuant to Water Code section 13383. The Regional Water Board needs the required information to determine compliance with this TSO and the Amended General Permit.
22. The issuance of this TSO is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, Title 14, section 15301 because the TSO pertains to an existing facility and involves negligible or no expansion of an existing use. In addition, the issuance of this TSO is categorically exempt from CEQA pursuant to California Code of Regulations, Title 14, sections 15307, 15308, and 15321, subdivision (a)(2). The issuance of this TSO is an action to assure the maintenance,

restoration, enhancement and protection of the environment and a natural resource and is also an enforcement order issued by the Regional Water Board.

23. Pursuant to Water Code section 13167.5, subdivision (a)(3), the Regional Water Board has notified BWP, interested agencies, and interested persons of its intent to issue this TSO concerning compliance with waste discharge requirements and provided a 30-day comment period. The Regional Water Board considered all comments received.
24. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with the Water Code section 13320 and the 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 Regional Water Board action, except that if the thirtieth day following the action 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 online at http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13300 and 13385, subdivision (j)(3), Burbank Water and Power (BWP), shall comply with the requirements listed below to ensure compliance with the NELs for total zinc and total copper contained in the Amended General Permit by March 28, 2025:

1. Comply immediately with the following interim actions, schedule, and interim effluent limitations at all discharge points:

Interim Action:	Schedule:
Implement facility specific SWPPP	In compliance with terms in the Amended General Permit
Begin construction	August 8, 2023
Complete construction	November 5, 2024
System start-up and commissioning	October 29, 2024
Project completion	March 28, 2025

Pollutant	Interim Effluent Limitation in mg/L
Total zinc	1.8
Total copper	0.15

The foregoing interim effluent limitations and interim actions are in effect from (Date of Approval) through March 28, 2025. During this time, BWP shall comply with the interim actions and associated schedule as described in this TSO.

2. Submit, electronically through the SMARTS database, biannual progress reports of efforts taken to comply with the interim actions per the above schedule and with the interim effluent limitation in addition to other reporting requirements pursuant to the Amended General Permit. The reports shall summarize progress to date, activities conducted during the reporting period and activities planned for the upcoming reporting period. Biannual progress reports shall be due June 1st and December 1st each year throughout the duration of this TSO, with the first report due on December 1, 2022.
3. Submit, electronically through the SMARTS database, a final report due on March 28, 2025 that describes a summary of all the interim actions completed and their successful completion.
4. Any person signing a document submitted under this TSO shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

5. If BWP fails to comply with any provisions of this TSO, the Regional Water Board may take any further action authorized by law. The Executive Officer, or a delegee, is authorized to take appropriate administrative enforcement action pursuant, but not limited to, Water Code sections 13350 and 13385. The Regional Water Board may also refer any violations to the Attorney General for judicial enforcement, including injunction and civil monetary remedies.
6. All other provisions of the Amended General Permit that are not in conflict with this TSO, including NELs not addressed by this TSO, remain in full force and effect.
7. The Regional Water Board may reopen this TSO at its discretion or at the request of BWP, if warranted. Lack of progress towards compliance with this TSO may be cause for the Regional Water Board to modify the conditions of this TSO.
8. This TSO is effective on (Date of Approval) and expires on March 28, 2025.

SO ORDERED.

Renee Purdy, Executive Officer

Date