

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CEASE AND DESIST ORDER NO. R5-2011-0040

REQUIRING
MAXWELL PUBLIC UTILITY DISTRICT
MAXWELL PUBLIC UTILITY DISTRICT WASTEWATER TREATMENT PLANT
COLUSA COUNTY

TO CEASE AND DESIST
FROM DISCHARGING CONTRARY TO REQUIREMENTS

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

1. On 1 March 2002, the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order R5-2002-0022 (NPDES Permit No. CA0079987) for the Maxwell Public Utility District's (Discharger) Wastewater Treatment Plant (Facility) for discharges up to 0.2 million gallons per day (mgd) of disinfected secondary treated wastewater to an unnamed tributary of Lurline Creek, which is tributary to the Colusa Basin Drain. WDR Order R5-2002-0022, in part, required tertiary treatment or equivalent and compliance with the effluent limitations for biological oxygen demand (BOD), total suspended solids (TSS), total coliform organisms, and turbidity by 1 February 2007. The Central Valley Water Board also adopted Cease and Desist Order (CDO) R5-2002-0023 that required the Discharger to comply with the ammonia effluent limitation by 1 February 2007.
2. In a report dated December 2005, the Discharger proposed treatment plant improvements and land disposal only, with no discharges to surface water. On 14 February 2006, the Discharger requested additional time to comply because of difficulties acquiring the necessary land for wastewater disposal.
3. On 22 June 2007, the Central Valley Water Board adopted Time Schedule Order (TSO) R5-2007-0073 that established a new time schedule for full compliance with the Effluent Limitations for BOD, TSS, total coliform organisms, turbidity, and ammonia contained in WDR Order R5-2002-0022 by 18 May 2010. The TSO provided protection from Mandatory Minimum Penalties (MMPs) for BOD, TSS, and total coliform organisms until 18 May 2010.
4. On 18 September 2008, the Central Valley Water Board issued Administrative Civil Liability Order (ACLO) R5-2008-0561 to the Discharger that assessed a total of \$1,617,000 in MMPs. The Discharger was allowed to apply the penalty toward the land discharge project described in TSO R5-2007-0073.
5. On 5 February 2009, the Central Valley Water Board adopted WDR Order R5-2009-0009, renewing the NPDES Permit, and established, in part, the following final effluent limitations:

IV.A.1.a.

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Inst. Min.	Inst. Max.
Ammonia Nitrogen, Total (as N)	mg/L	0.6	--	1.5	--	--
	lbs/day ¹	1.0	--	2.5	--	--
Biochemical Oxygen Demand (5-day @ 20 °C)	mg/L	10	15	20	--	--
	lbs/day ¹	17	25	33	--	--
Total Suspended Solids	mg/L	10	15	20	--	--
	lbs/day ¹	17	25	33	--	--
Total Coliform Organisms	MPN/100 ml	--	--	--	--	240
pH	Standard units	--	--	--	6.5	8.5

¹ Based on an average dry weather flow of 0.2 mgd

- IV.A.1.e. **Total Coliform Organisms.** Effluent Total Coliform Organisms shall not exceed:
- i. 2.2 most probable number (MPN) per 100 ml, as a 7-day median; and
 - ii. 23 MPN/100 ml, more than once in any 30-day period.

6. Order R5-2009-0009 also contained the following operation specification:

V.C.4.b. **Turbidity.** The Discharger shall operate the treatment system to insure that turbidity shall not exceed 2 NTU as a daily average; 5 NTU more than 5 percent of the time within a 24 hour period; and 10 NTU, at any time.

7. Order R5-2009-0009 contained a compliance schedule and interim limitation for the Discharger to comply with the new more stringent final effluent limitations for ammonia by 18 May 2010.
8. On 4 February 2011, the Central Valley Water Board issued ACLO R5-2011-0518 to the Discharger that assessed a total of \$1,248,000 in MMPs. The Discharger was allowed to apply the penalty toward the land discharge project described in TSO R5-2007-0073, which was amended by Order R5-2009-0098.
9. Section 13301 of the California Water Code (CWC) states in part:

“When a regional board finds that a discharge of waste is taking place or threatening to take place in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventative action. In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to such system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order. Cease and desist orders may be issued directly by a board, after notice and hearing, or in accordance with the procedure set forth in Section 13302.”

10. On 8 November 2010, the Discharger submitted an Infeasibility Report that included justification to extend the compliance schedule for TSS, BOD, total coliform organisms, turbidity, and ammonia to 31 January 2012. The Discharger recently received funding from the US Department of Agriculture and the State Water Resource Control Board's Small Community Wastewater Grant for construction of the wastewater treatment plant improvements and expansion of land disposal area; subsequently, the Discharger acquired the necessary land for land disposal. The Discharger also completed CEQA and other local, state, and federal construction permitting requirements. The project bid process started in January 2011, the bid was awarded 23 February 2011, and initiation of operations of the land disposal facility is planned for **31 January 2012**.
11. The Central Valley Water Board finds that the Discharger is not able to consistently comply with the effluent limitations for TSS, BOD, total coliform organisms, ammonia, and pH and with the operation specification for turbidity. Based on the information provided by the Discharger, the schedules for completing the actions necessary to achieve full compliance exceed the adoption date of this Order. Additional time is necessary to provide the necessary treatment to comply with the requirements of WDR Order R5-2009-0009. New time schedules are necessary in a CDO for all the constituents listed above. These limitations were new requirements that became applicable to the Order after the effective date of adoption of the WDRs, and after 1 July 2000, for which new or modified control measures are necessary in order to comply with the limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
12. Immediate compliance with the effluent limitations for BOD, TSS, total coliform organisms, pH, and ammonia, and the operation specification for turbidity, is not possible or practicable. The Clean Water Act and the California Water Code authorize time schedules for achieving compliance. The Central Valley Water Board is providing no later than 31 January 2012 for the Discharger to comply with the requirements for BOD, TSS, total coliform organisms, pH, and ammonia, and with the operation specification for turbidity.

Mandatory Minimum Penalties

13. CWC section 13385(h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties upon dischargers that violate certain effluent limitations. CWC section 13385(j) exempts certain violations from the mandatory minimum penalties *"where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308, if all the [specified] requirements are met...for the purposes of the subdivision, the time schedule may not exceed five years in length...."*
14. By statute, a Cease and Desist Order or Time Schedule Order may provide protection from MMPs for no more than five years.

15. TSO R5-2007-0073 provided protection from MMPs for BOD, TSS, and total coliform organisms until 18 May 2010. Compliance with this Order exempts the Discharger from MMPs for violations of the final effluent limitations for BOD, TSS, and total coliform organisms from 10 June 2011 (date of adoption) until 31 January 2012. In accordance with CWC section 13385(j)(3), the total length of protection is less than five years.
16. Previous Orders have not provided the Discharger protection from MMPs for violation of the final effluent limitations for pH. Compliance with this Order exempts the Discharger from MMPs for violations of the final effluent limitations for pH from 10 June 2011 (date of adoption) until 31 January 2012. In accordance with CWC section 13385(j)(3), the total length of protection is less than five years.
17. Order R5-2009-0009 contained a compliance schedule and interim limitation for the Discharger to comply with the more stringent final effluent limitations for ammonia by 18 May 2010. Compliance with this Order exempts the Discharger from MMPs for violations of the final effluent limitations for ammonia from 10 June 2011 (date of adoption) until 31 January 2012. In accordance with CWC section 13385(j)(3), the total length of protection is less than five years.
18. The turbidity limit in Order R5-2009-0009 is an operation specification. Therefore, violations of turbidity limits are not subject to MMPs.
19. This Order provides a time schedule for completing the actions necessary to ensure compliance with the final effluent limitations for BOD, TSS, total coliform organisms, ammonia, and pH and with the operation specification for turbidity contained in WDR Order R5-2009-0009 (Section IV.A.1. Final Effluent Limitations and Section V.C.4.b. Operation Specifications). Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds 1-year, this Order includes interim effluent limitations and interim requirements and dates for their achievement.
20. This Order includes the interim effluent limitations for BOD, TSS, total coliform organisms, and turbidity established in Order R5-2009-0098 (Amending TSO R5-2007-0073), and the interim effluent limitations for ammonia established in Order R5-2009-0009. The interim limitations for pH in this Order are 6.5 as an instantaneous minimum and 10.0 as an instantaneous maximum and are based on treatment plant performance.
21. The Central Valley Water Board finds that the Discharger can maintain compliance with the interim effluent limitations included in this Order. Interim effluent limitations are established when compliance with the final effluent limitations cannot be achieved by the existing Facility. Discharge of constituents in concentrations in excess of the final effluent limitations, but in compliance with the interim effluent limitations, can significantly degrade water quality and adversely affect the beneficial uses of the receiving stream on a long-term basis. The interim effluent limitations, however, establish an enforceable ceiling concentration until compliance with the final effluent limitation can be achieved.

Other Regulatory Considerations

22. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) ("CEQA") for the following reasons, each of which is an independent basis for exemption.
 - a. This Order does not modify any compliance dates or other requirements of NPDES Order R5-2009-0009, which requires compliance with the effluent limitations addressed by this Order. This Order serves to enforce Order R5-2009-0009. This Order is exempt from CEQA under Water Code Section 13389, since the adoption or modification of a NPDES permit for an existing source is exempt and this Order only serves to implement a NPDES permit. (*Pacific Water Conditioning Ass'n, Inc. v. City Council of City of Riverside* (1977) 73 Cal.App.3d 546, 555-556.).
 - b. This Order does not have the potential to cause a significant impact on the environment (Title 14 CCR section 15061(b)(3)) and is not a "project" as defined by CEQA. This Order enforces preexisting requirements to improve the quality of ongoing discharges that are part of the CEQA "baseline"; and includes interim effluent limitations to ensure that discharges do not increase above the CEQA baseline. This Order imposes requirements that will maintain the CEQA baseline while the Discharger attains compliance with the existing requirements. The pollution prevention plan will identify source control measures in order to meet the preexisting effluent limitations. Since the compliance schedule is as short as possible and any actions to comply with the existing requirements are already required, this Order does not allow or cause any environmental impacts to occur; those impacts would occur regardless of this Order.
 - c. This Order is exempt pursuant to CEQA Guidelines Section 15321. The discharges subject to this Order are not "hazardous materials." Also, the discharges occur offsite and do not occur at the site itself.
23. On 10 June 2011, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order under CWC section 13301 to establish a time schedule to achieve compliance with waste discharge requirements.

IT IS HEREBY ORDERED THAT Time Schedule Order R5-2007-0073 and Order R5-2009-0098 Amending Time Schedule Order R5-2007-0073 are rescinded upon the adoption of this Order by the California Regional Water Quality Control Board, Central Valley Region, except for enforcement purposes, and, pursuant to CWC Section 13301:

- The Discharger shall comply with the following time schedule to ensure compliance with Effluent Limitations for BOD, TSS, total coliform organisms, ammonia, and pH and the Operation Specification for turbidity in WDR Order R5-2009-0009:

<u>TASK</u>	<u>COMPLIANCE DATE</u>
Submit Progress Report ¹	1 June 2011
Complete Construction of the land application wastewater treatment plant	30 November 2011
Fully operate the land application treatment plant	31 January 2012
Full compliance with Effluent Limitations for BOD, TSS, total coliform organisms, ammonia, and pH and the Operation Specification for turbidity	31 January 2012

¹ The Progress Report shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including studies, construction progress, evaluation measures implemented, and recommendations for additional measures as necessary to achieve full compliance by the final date.

- For the compliance schedules required by this Order, the Discharger shall submit to the Central Valley Water Board on or before each compliance report due date, the specified document or, if appropriate, a written report detailing compliance or noncompliance with the specific schedule date and task. If noncompliance is being reported, the reasons for such noncompliance shall be stated, and shall include an estimate of the date when the Discharger will be in compliance. The Discharger shall notify the Central Valley Water Board by letter when it returns to compliance with the time schedule.
- The following interim effluent limitations for BOD, TSS, total coliform organisms, turbidity, and ammonia shall be effective immediately, and shall remain in effect through **31 January 2012**:

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	30-Day Median	Average Daily	Maximum Daily
Ammonia Nitrogen, Total (as N) ³	mg/L	--	--	--	--	8
	lbs/day ¹	--	--	--	--	--
Biochemical Oxygen Demand (5-day @ 20 °C) ⁴	mg/L	60 ²	90 ²	--	120 ²	--
	lbs/day ¹	100	150	--	200	--
Total Suspended Solids ⁴	mg/L	160 ²	240 ²	--	320 ²	--
	lbs/day ¹	267	401	--	534	--
Total Coliform Organisms ⁴	MPN/100 ml	--	--	23	--	500
Turbidity ⁴	NTU	--	--	--	--	320

1 Based on a design treatment capacity of 0.2 mgd (x mg/L X 8.345 X 0.20 mgd = y lbs/day)
 2 To be ascertained by a 24-hour composite
 3 Source of Interim Limitation is WDR Order R5-2009-0009
 4 Source of Interim Limitation is Order R5-2009-0098 (Amending TSO R5-2007-0073)

4. The interim limitations for pH are 6.5 as an instantaneous minimum and 10.0 as an instantaneous maximum. The pH interim limitations are effective immediately and shall remain in effect through **31 January 2012**.
5. If in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability.
6. 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."

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 CWC 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 (including mandatory furlough days), 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 or will be provided upon request.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 10 June 2011.

Original Signed by

PAMELA C. CREEDON, Executive Officer