

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER R5-2011-0905

REQUIRING THE MARIPOSA PUBLIC UTILITY DISTRICT
WASTEWATER TREATMENT FACILITY
MARIPOSA COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER R5-2007-0171
(NPDES PERMIT NO. CA0079430)

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

1. On 6 December 2007, the Central Valley Water Board adopted Waste Discharge Requirements Order R5-2007-0171, NPDES Permit No. CA0079430, authorizing the Mariposa Public Utility District (hereafter Discharger) to discharge treated wastewater from its wastewater treatment facility (Facility) to Mariposa Creek, a water of the United States.
2. Order R5-2007-0171, section IV.A.1.a., contains final effluent limitations for discharges to Mariposa Creek, which read, in part, as follows:

| Parameter | Units | Effluent Limitations | | | | |
|----------------------|-------|----------------------|----------------|---------------|-----------------------|-----------------------|
| | | Average Monthly | Average Weekly | Maximum Daily | Instantaneous Maximum | Instantaneous Minimum |
| Dichlorobromomethane | µg/L | 0.6 | -- | 1.1 | -- | -- |

3. Order R5-2007-0171, section VI.C.7.a.i., provides a compliance schedule requiring the Discharger to comply with the final effluent limitations presented in Finding 2 by 18 May 2010.
4. California Water Code (CWC) 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.
5. Title 40 of the Code of Federal Regulations, Section 122.44(d)(1)(i) requires that NPDES permit effluent limitations must control all pollutants which are or may be discharged at a level which will cause or have the reasonable potential to cause or contribute to an in-stream excursion above any State water quality standard, including any narrative criteria for water quality. Beneficial uses, together with their corresponding water quality objectives or promulgated water quality criteria, can be defined per federal regulations as water quality standards.

6. CWC subsections 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)(3) provides protection from mandatory minimum penalties for violations of an effluent limitation when:

...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 of the following requirements are met:

(A) The ... time schedule order is issued on or after July 1, 2000, and specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i).

(B) The regional board finds that, for one of the following reasons, the discharger is not able to consistently comply with one or more of the effluent limitations established in the waste discharge requirements applicable to the waste discharge:

(i) 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.

...

(C) (i) The regional board establishes 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 the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation. Except as provided in clause (ii), for the purposes of this subdivision, the time schedule shall not exceed five years in length.

...

(iii) 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 of the following:

(I) Effluent limitations for the pollutant or pollutants of concern.

(II) Actions and milestones leading to compliance with the effluent limitation.

(D) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan pursuant to Section 13263.3.

In accordance with CWC section 13385(j)(3), and based upon effluent monitoring results, the Central Valley Water Board finds that the Discharger is unable to consistently comply with the final effluent limitations for dichlorobromomethane contained in Order R5-2007-0171.

The final effluent limitations for this constituent are based on implementation of the California Toxics Rule. These effluent limitations are new requirements that became

applicable to the discharge on 18 May 2010, and new or modified control measures need to be implemented to comply with the final effluent limitations and these new or modified control measures cannot be completed and put into operation within 30 calendar days. This Order requires the Discharger to prepare and implement a pollution prevention plan pursuant to CWC section 13263.3 for dichlorobromomethane.

7. On 6 August 2009, the Discharger submitted the *Work Plan and Implementation Schedule for Copper, Zinc, Dichlorobromomethane, Nitrate, and Tertiary Treatment* (Work Plan) to address compliance with final effluent limitations contained in Order R5-2007-0171. The Work Plan includes an implementation schedule for meeting final effluent limitations for copper, zinc, and dichlorobromomethane with a final compliance date of 4 December 2017. Central Valley Water Board staff informed the Discharger that compliance schedules cannot exceed five years and requested the Discharger submit a revised implementation schedule for meeting the final effluent limitations for copper, zinc, and dichlorobromomethane that does not exceed five years.
8. On 7 January 2011, the Discharger submitted a report entitled *Facility Plan* prepared by Carollo Engineers on behalf of the Discharger. The *Facility Plan* evaluates alternatives for meeting final effluent limitations and requirements for dichlorobromomethane, nitrate (as N), and tertiary treatment. The *Facility Plan* recommends the addition of a new anoxic/flow equalization basin, tertiary filtration, and ultraviolet light disinfection and estimates the cost of the upgrades to be approximately \$7,300,000. The cover letter accompanying the *Facility Plan* includes a request to extend the compliance date for meeting the final effluent limitations for dichlorobromomethane and a revised implementation schedule for meeting final effluent limitations and requirements. The revised implementation schedule indicates the Discharger intends to comply with the final effluent limitations for copper and zinc by March 2011 and with the final effluent limitations for dichlorobromomethane by 4 December 2017 to coincide with its final compliance date for meeting the final effluent limitation for nitrate (as N) and tertiary treatment requirements included in Order R5-2007-0171. CWC section 13385(j)(3)(C)(i) does not allow the Central Valley Water Board to issue time schedules for complying with final effluent limitations that exceed five years in length. However, subclause (ii) allows dischargers to request up to an additional five years if the discharger is still unable to comply with the final effluent limitations after the initial five years and can show it is making diligent progress toward complying.
9. Provision VI.C.7.a.ii. of Order R5-2007-0171 requires the Discharger to submit a work plan for completing a pollution prevention plan for dichlorobromomethane. In its Work Plan submitted 6 August 2009, the Discharger noted that most of the tasks required to prepare a pollution prevention plan would be covered by completion of the Treatment Feasibility Study required by Provision VI.C.7.a.iii. This Order requires the Discharger to complete a pollution prevention plan for dichlorobromomethane because the Treatment Feasibility Study (included in the *Facility Plan*) does not include all of the requirements specified in CWC section 13263.3(d)(3).

10. This Order provides a time schedule for the Discharger to develop, submit, and implement methods of compliance, including utilizing pollution prevention activities or constructing necessary treatment facilities to meet the new effluent limitations for dichlorobromomethane.
11. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds one year, this Order includes interim requirements and dates for their achievement. The time schedule does not exceed five years.
12. The compliance time schedule in this Order includes interim performance-based effluent limitations for dichlorobromomethane. The interim effluent limitations consist of a maximum daily effluent concentration and an average monthly effluent concentration derived using sample data provided by the Discharger during the term of Order R5-2007-0171 (approximately 3 years). In developing the performance-based interim effluent limitations, where there are ten data points or more, sampling and laboratory variability is accounted for by establishing interim effluent limitations that are based on normally distributed data where 99.9 percent of the data points will lie within 3.3 standard deviations of the mean (*Basic Statistical Methods for Engineers and Scientists*, Kennedy and Neville, Harper and Row, 3rd Edition, January 1986). When at least 80 percent of the data points are reported as non-detect (ND) values, or if there are less than ten data points available, interim effluent limitations are based on 3.11 times the maximum observed effluent concentration (MEC) to obtain the daily maximum and average monthly interim effluent limitations. Additionally, if either of these procedures produces interim effluent limitations less than the MEC, the MEC is sometimes established as the interim effluent limitation for both the maximum daily and average monthly limits. The following table summarizes the calculation of the interim performance-based effluent limitations for dichlorobromomethane:

Maximum Daily and Average Monthly Interim Effluent Limitations

| Parameter | Units | MEC | Mean | Std. Dev. (SD) | # of Data Points | % ND | Formula Used | Calculated Limit |
|----------------------|-------|-----|------------------|------------------|------------------|------|---------------|------------------|
| Dichlorobromomethane | µg/L | 13 | 2.3 ¹ | 2.2 ¹ | 38 | 5.3 | 3.3×SD + Mean | 9.4 |

¹ Where there were non-detects, one-half of the reporting limit was used.

13. The compliance time schedule in this Order includes interim performance-based effluent limitations for dichlorobromomethane.
14. The Discharger can, in addition to other treatment and control options, undertake source control to maintain compliance with the interim effluent limitations in this Order. Interim effluent limitations are established when compliance with the final effluent limitations cannot be achieved by the existing discharge. 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 limitations can be achieved.

15. The Executive Officer has provided a 30-day public comment period and addressed all pertinent comments.
16. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000, et seq.), in accordance with CWC section 13389 and Title 14, California Code of Regulations, Section 15321(a)(2).

IT IS HEREBY ORDERED, pursuant to sections 13300 and 13267 of the California Water Code that:

1. The Discharger shall comply with the following time schedule to ensure compliance with the final effluent limitations for dichlorobromomethane at section IV.A.1.a., contained in Order R5-2007-0171 as described above in the Findings:

| Task | Task Description | Date Due |
|-------------|--|---|
| 1 | Submit and begin implementing a Pollution Prevention Plan ¹ pursuant to CWC section 13263.3 for dichlorobromomethane | 13 October 2011 |
| 2 | Begin implementing the <i>Facility Plan</i> and any revisions thereto that have been approved by the Executive Officer | 1 August 2011 |
| 3 | Submit Draft California Environmental Quality Act Documentation | 1 September 2011 |
| 4 | Submit written certification that a Financial Assistance application has been submitted to the State Water Resources Control Board | 1 December 2011 |
| 5 | Progress Reports ² | Semi-annually on 1 June and 1 December until final compliance |
| 6 | Full compliance with the final effluent limitations for dichlorobromomethane | 18 May 2015 |

¹ The pollution prevention plan shall be prepared and implemented for dichlorobromomethane and shall meet the requirements specified in CWC section 13263.3. The pollution prevention plan shall describe pollution prevention activities the Discharger will implement in the short-term and the long-term to reduce effluent concentrations for dichlorobromomethane.

² The progress reports shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including studies, construction progress, evaluation of measures implemented, and recommendations for additional measures as necessary to achieve full compliance by the final date.

2. The following interim effluent limitations for dichlorobromomethane at Discharge Point No. 001 shall be effective from **13 July 2011** to **17 May 2015**, or when the Discharger is able to come into compliance, whichever is sooner.

| Parameter | Units | Average Monthly | Daily Maximum |
|----------------------|--------------|------------------------|----------------------|
| Dichlorobromomethane | µg/L | 9.4 | 9.4 |

3. 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.

Issuance of this Order does not preclude the Central Valley Water Board from taking additional enforcement actions against the Discharger. If compliance is not achieved by the full compliance date, the discharge will be subject to mandatory minimum penalties for violations of the final effluent limitations for dichlorobromomethane.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Resources Control Board to review the action in accordance with CWC section 13320 and Title 23, California Code of Regulations, Sections 2050 and following. The State Water Resources Control Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or State holiday, the petition must be received by the State Water Resources Control 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.

This Order is effective upon the date of signature.

Original signed by Clay L. Rodgers for
PAMELA C. CREEDON, Executive Officer

13 July 2011