

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER R5-2015-0032  
REQUIRING  
NEVADA COUNTY SANITATION DISTRICT NO.1  
CASCADE SHORES WASTEWATER TREATMENT PLANT  
NEVADA COUNTY

TO COMPLY WITH WASTE DISCHARGE REQUIREMENTS PRESCRIBED IN ORDER  
R5-2015-0031  
(NPDES PERMIT NO. CA0083241)

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

1. The Nevada County Sanitation District No. 1 (Discharger) owns and operates the Cascade Shores Wastewater Treatment Plant (Facility). The Facility discharges up to 0.026 million gallons per day (MGD) of treated wastewater to Gas Canyon Creek, a tributary to Bear River via Greenhorn Creek and Rollins Reservoir.
2. On 31 July 2008, the Central Valley Water Board adopted Waste Discharge Requirements (WDRs) Order R5-2008-0111 (NPDES No. CA0083241), which included final effluent limitations, in part, for copper. Finding that the Discharger could not comply with final copper effluent limitations, the Central Valley Water Board granted the Discharger an interim limitation, and a compliance schedule in the WDRs that required compliance with the final effluent limits for copper by 18 May 2010. WDRs Order R5-2008-0111 does not contain zinc effluent limitations.
3. On 30 June 2009, the Discharger completed relocation and construction of a new wastewater treatment plant. Additional upgrades were completed during the first quarter of 2010. On 1 June 2010, the Discharger submitted a letter certifying that it had spent an estimated \$4.5 million relocating and constructing a new tertiary-level treatment plant, but that the effluent discharge has not complied with the final effluent limitations for copper contained in WDRs Order R5-2008-0111.
4. The Discharger subsequently requested additional time beyond the compliance dates in WDRs Order R5-2008-0111 to achieve compliance with the final copper limits, and requested that the Board provide it with protection from mandatory minimum penalties (MMPs) by issuing a Time Schedule Order (TSO) pursuant to Water Code section 13300. On 14 December 2010, the Central Valley Water Board issued TSO R5-2010-0909, which provided additional time for the Discharger to achieve compliance with the final copper limits by 10 December 2015. The TSO required that the Discharger complete the following:
  - submit and implement a pollution prevention plan for copper,
  - identify alternatives to achieve compliance with final copper effluent limitations and submit a work plan and time schedule, and
  - complete work plan for the preferred alternative.
5. On 17 April 2015, the Central Valley Water Board adopted WDRs Order R5-2015-0031, which contained, in part, final zinc effluent limitations at 23 micrograms per liter ( $\mu\text{g/L}$ ), as an average monthly, and 46  $\mu\text{g/L}$ , as maximum daily effluent limitations. WDRs Order R5-2015-0031 carry

forward final copper average monthly effluent limitations (AMEL) and maximum daily effluent limitations (MDEL) contained in WDRs R5-2008-0111.

### **NEED FOR TIME SCHEDULE EXTENSION AND LEGAL BASIS**

6. On 13 June 2011, the Discharger submitted a pollution prevention plan for copper that proposed to:
  - implement monitoring of tap water, receiving water, influent and effluent for 8 weeks,
  - implement a temporary lime addition system for plant alkalinity control,
  - implement a temporary chelation agent and coagulant chemical addition system,
  - investigate likelihood of favorable copper Water Effect Ratio (WER) study result, and
  - select a preferred copper compliance alternative.
7. On 16 January 2015, the Discharger submitted an Infeasibility Analysis requesting additional time to comply with the new final zinc effluent limitation in WDRs R5-2015-0031, and requested an extension of the compliance schedule in TSO R5-2010-0909 for copper. On 21 January 2015, the Discharger submitted an amendment to the Infeasibility Analysis. The Discharger proposed to convert to a land application (community septic) system, due to annual operational costs of the tertiary treatment plant that exceeded facility revenue by approximately \$100,000/year. The Infeasibility Analysis meets the requirements of the State Water Resources Control Board's Compliance Schedule Policy (Resolution No. 2008-0025, *Policy for Compliance Schedules in National Pollutant Discharge Elimination System Permits*). The Discharger's submittal included: (a) documentation that diligent efforts have been made to quantify pollutant levels in the discharge and the sources of the pollutant in the waste stream; (b) documentation of source control measures and/or pollution minimization measures efforts currently underway or completed; and (c) a proposal for additional or future source control measures, pollutant minimization actions, or waste treatment (i.e., new plant construction) with projected time schedules to achieve compliance with final effluent limitations.
8. The Discharger cannot consistently comply with the copper and zinc effluent limitations in WDRs Order R5-2015-0031 and must implement additional actions to reach compliance. This Order contains a time schedule for compliance with final effluent limitations, sets interim limitations, and is intended to provide protection from MMPs for these constituents.

### **MANDATORY MINIMUM PENALTIES**

9. Water Code section 13385, subdivisions (h) and (i), requires the Central Valley Water Board to impose MMPs upon dischargers that violate certain effluent limitations. Water Code section 13385(j)(3) exempts discharges from these MMPs:

... 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 this subdivision, the time schedule may not exceed five years in length...
10. Per the requirements of Water Code section 13385, subdivision (j)(3), the Central Valley Water Board finds that new or modified control measures are necessary in order to comply with existing effluent limitations, and that the Discharger is lacking the funding to put into operation

the new or modified control measures within 30 calendar days of the date that the final effluent limitations went into effect. The proposed time schedule is needed to acquire property, obtain funding, and complete designs and construction.

11. TSOs generally may only provide protection from MMPs for up to five years. However, Water Code section 13385, subdivision (j)(3)(C)(ii)(II), authorizes the Board to grant an additional five years if the Board finds, following a public hearing, that a Discharger is making diligent progress towards bringing the waste discharge into compliance and that the additional time is necessary to comply with the effluent limitations.
12. Compliance with this TSO provides protection for the Discharger from MMPs as follows:
  - a. Copper: WDRs Order R5-2008-0111 imposed final effluent limitations for copper that became effective on 19 May 2010. TSO R5-2010-0909 provided MMP protection for copper violations from 14 December 2010 through 10 December 2015. This TSO carries forward MMP protections for copper through 31 December 2018. This time schedule is as short as possible and does not exceed ten (10) years in length from the date the final effluent limitations became effective.
  - b. Zinc: WDRs Order R5-2015-0031 imposed final effluent limitations for zinc. Compliance with this TSO provides MMP protections for zinc from 17 April 2015 through 31 December 2018. The Discharge has not previously been protected from MMPs for violations of the copper effluent limitations.
13. The Board finds that the time schedules in Finding No. 12 are as short as possible, considering 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 limitations. Where additional time is granted beyond the initial five (5) years, the Board finds that the Discharger is making diligent progress towards bringing the waste discharge into compliance, that the additional time is necessary to comply with the effluent limitations, and that the time schedule does not exceed ten (10) years in length from the date the final effluent limitations became effective.
14. This TSO provides a time schedule for completing the actions necessary to ensure compliance with final effluent limitations. Since the time schedule for the completion of these actions exceeds one (1) year, this TSO includes interim effluent limitations and interim requirements and dates for their achievement.

15. TSO R5-2010-0909 contained interim performance-based effluent limitations for copper; this TSO carries forward the interim AMEL of 25.5 µg/L and MDEL of 30.0 µg/L for copper. This Order also includes new interim zinc effluent limitations based on the current treatment plant performance; however there are only four analytical monitoring results for zinc, which is a limited dataset to attain statistically calculated performance-based interim limits. For example, using the four sample data provided by the Discharger and the statistical based approach provided in EPA's *Technical Support Document for Water Quality-Based Toxics Control* or TSD to calculate the interim limit, an interim AMEL equates to 530 µg/L, which is artificially inflated for a MEC at 112 µg/L. Therefore staff used professional judgment in calculating the interim zinc effluent limitations in this Order that provided the Discharger a safety factor over the maximum zinc effluent concentration of 112 µg/L.
16. The Central Valley Water Board expects 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.
17. If an interim effluent limit contained in this Order is exceeded, then the Discharger is subject to MMPs for that particular exceedance, as it will no longer meet the exemption in Water Code section 13385, subdivision (j)(3). It is the intent of the Central Valley Water Board that a violation of an interim monthly effluent limitation subjects the Discharger to only one MMP for that monthly averaging period. In addition, a violation of an interim daily maximum effluent limit subjects the Discharger to one MMP for the day in which the sample was collected.

### **REGULATORY BASIS**

18. Water Code section 13300 states, in part:

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.
19. Water Code section 13267 states, in part:

In conducting an investigation ... 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 ... shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be

obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

20. The Discharger owns and operates the Facility. The technical and monitoring reports required by this Order are necessary to determine compliance with WDRs Order R5-2015-0031 and with this TSO.
21. Issuance of this TSO is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) pursuant to Water Code section 13389, since the adoption or modification of an NPDES permit for an existing source is statutorily 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.)
22. On 17 April 2015, in Fresno, 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 Time Schedule Order under Water Code section 13300 to establish a time schedule to achieve compliance with waste discharge requirements.

**IT IS HEREBY ORDERED THAT**, pursuant to Water Code sections 13300 and 13267, TSO R5-2010-0909, is rescinded except for enforcement purposes, and, in order to ensure compliance with the requirements of Waste Discharge Requirements Order R5-2015-0031 the Discharger shall comply with the following:

1. Pursuant to water code section 13267, the Discharger shall submit the following technical report to ensure compliance with the final effluent limitations for copper and zinc contained in WDR Order R5-2015-0031, as described in Finding 7 above:

<b>Task</b>	<b>Compliance Date</b>
Submit Progress Reports <sup>1</sup>	31 January, annually
Apply for State Revolving Fund (SRF) money for land septic system construction	30 April 2015
Submit Pollution Prevention Plan for zinc	31 December 2015
Obtain State Water Resources Control Board approval for SRF funding	30 October 2016
Receive septic system contractor construction bids	31 December 2016
Award septic system construction contract	31 April 2017
Initiate septic system construction	31 June 2017
Complete septic system construction	30 June 2018
Operational Startup	30 October 2018
Submit documentation showing that the facility has ceased discharging to surface water or fully complies with the final	31 December 2018

effluent limitations for copper and zinc.	
<sup>1</sup> The progress reports shall detail the steps taken to comply with this Order, including documentation showing completion of tasks, construction progress, evaluation of the effectiveness of the implemented measures, and assessment of whether additional measures are necessary to meet the compliance dates.	

2. The following interim effluent limitations for copper and zinc shall be effective upon adoption of this Order, and shall apply in lieu of the corresponding final effluent limitations in WDRs Order R5-2015-0031. The Discharger shall maintain compliance with the following interim effluent limitations through 30 December 2018, or when the Discharger is able to come into compliance with the final effluent limitations, whichever is sooner.

Parameter	Units	Interim Average Monthly Effluent Limitation	Interim Maximum Daily Effluent Limitation
Copper	µg/L	25.5	30.3
Zinc	µg/L	150	200

3. 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.”*

4. In accordance with California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain work plans that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain the professional's signature and/or stamp of the seal.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order or with the WDRs may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

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 Water Code 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, 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](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 **17 April 2015**.

***Original signed by***

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PAMELA C. CREEDON, Executive Officer