

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER R5-2011-0907

REQUIRING CITY OF WOODLAND,
WATER POLLUTION CONTROL FACILITY
YOLO COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER R5-2009-0010
(NPDES PERMIT NO. CA0077950)

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

1. On 5 February 2009, the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order R5-2009-0010, prescribing waste discharge requirements for the City of Woodland (Discharger) Water Pollution Control Facility (Facility), Yolo County. Treated wastewater is discharged to Tule Canal, which is tributary to the Yolo Bypass.
2. WDR Order R5-2009-0010 contains Final Effluent Limitation IV.A.1., which reads in part as follows:

The Discharger shall maintain compliance with the following effluent limitations at Discharge Point No. 001, with compliance measured at Monitoring Location EFF-001...:

- a. *The Discharger shall maintain compliance with the effluent limitations specified in Table 6:*

Table 6. Effluent Limitations

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Selenium	µg/L	3.2	--	9.2	--	--
	lbs/day	0.28	--	0.80	--	--

3. WDR Order R5-2009-0010 also contains Interim Effluent Limitation IV.A.2., which reads in part as follows:

- a. *During the period beginning on the **Permit Effective Date** and ending **17 May 2010**, the Discharger shall maintain compliance with the following limitations at Discharge Point 001, with compliance measured at Monitoring Location EFF-001 as described in the attached MRP. These interim effluent limitations shall apply in lieu of the corresponding final effluent limitations specified for the same parameters during the time period indicated in this provision.*

Table 7. Interim Effluent Limitations

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Selenium	µg/L	--	--	31	--	--

4. Selenium effluent monitoring data demonstrates that the Discharger cannot reliably comply with the final average monthly selenium effluent limitation in WDR Order R5-2009-0010, as shown in the following table.

Selenium Effluent Monitoring Data				
Date	Average Monthly		Maximum Daily	
	µg/L	lbs/day	µg/L	lbs/day
1/7/2008	5.2	0.25	5.2	0.31
4/1/2008	7.0	0.34	7.0	0.37
7/15/2008	4.5	0.18	4.5	0.26
10/7/2008	7.3	0.33	7.3	0.45
1/7/2009	ND	< 0.09	ND	< 0.10
4/8/2009	6.5	0.35	6.5	0.53
5/13/2009	5.4	0.27	5.4	0.31
6/10/2009	6.4	0.31	6.4	0.57
7/14/2009	7.1	0.34	7.1	0.63
8/12/2009	8.4	0.33	8.4	0.37
9/16/2009	2.5	0.10	2.5	0.14
10/21/2009	4.4	0.15	4.4	0.21
11/16/2009	3.3	0.13	3.3	0.14
12/1/2009	ND	< 0.07	ND	< 0.09
1/13/2010	ND	< 0.08	ND	< 0.12
2/10/2010	5.1	0.24	5.1	0.26
3/17/2010	4.3	0.20	4.3	0.23
4/14/2010	3.3	0.15	3.3	0.17
5/19/2010	2.9	0.13	2.9	0.14
6/15/2010	6.3	0.24	6.3	0.29
7/27/2010	2.1	0.07	2.1	0.12
8/23/2010	3.4	0.12	3.4	0.14
9/20/2010	3.8	0.14	3.8	0.20
10/11/2010	ND	< 0.08	ND	< 0.09
11/9/2010	2.1	0.07	2.1	0.10
12/8/2010	2.8	0.12	2.8	0.14
1/6/2011	ND	0.04	ND	0.05
2/2/2011	ND	0.05	ND	0.10
3/8/2011	2.4	0.12	2.4	0.14
4/12/2011	3.2	0.16	3.2	0.17
5/12/2011	5.6	0.26	5.6	0.29
Final Effluent Limits	3.2	0.28	9.2	0.80

Bold values indicate exceedances of final effluent limitations

5. In a letter dated 21 October 2010, the Discharger reported that the primary source of selenium in the effluent is the high level of selenium in the municipal water supply, which is primarily groundwater. The Discharger proposed that the most cost effective method for lowering the level of selenium in the effluent is to obtain new potable water supplies with surface water source water. In addition, the Discharger determined that improving the potable water supply was the most appropriate and cost-effective means to reduce the effluent levels of electrical conductivity, boron, and mercury, as well as selenium. The Discharger is currently in coordination with the City of Davis, the University of California at Davis, and Yolo Flood Control and Water Conservation District in developing a regional treated surface water supply project that is expected to improve drinking water quality. Subsequently, the new potable water supply will also improve the quality of the municipal wastewater influent to the Facility. On 15 October 2009, a Joint Powers Authority, which consists of the Cities of Woodland and Davis, was sworn in and officers and staff appointed. The new regional project is projected to be completed by mid 2016.

Mandatory Minimum Penalties

6. CWC sections 13385(h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties (MMPs) upon dischargers that violate certain effluent limitations. CWC section 13385(j) (3) exempts the discharge from 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, if all the [specified] requirements are met...For the purposes of this subdivision, the time schedule may not exceed five years in length....*"
7. By statute, a Cease and Desist Order (CDO) or Time Schedule Order (TSO) may provide protection from MMPs for no more than five years.
8. Previous CDOs or TSOs have not provided the Discharger with protection from MMPs for violations of the final effluent limitation for selenium. Therefore, compliance with this Order exempts the Discharger from MMPs for violations of the final effluent limitation for selenium from the date of this Order until five years from the date of this Order. In accordance with CWC section 13385(j)(3), the total length of protection is not more than five years.
9. Per the requirements of 13385(j)(3) of the California Water Code, the Central Valley Water Board finds that:
 - a. This Order specifies the actions that the Discharger is required to take in order to correct the violations that would otherwise be subject to CWC section 13385(h) and (i).
 - b. Reasonable Potential to cause or contribute to an exceedance of water quality objectives was determined for selenium, and the effluent limitations in WDR Order

R5-2009-0010 were new, more stringent or modified regulatory requirements that became applicable to the waste discharge after the effective date of the waste discharge requirements (26 March 2009) and after 1 July 2000. New or modified control measures are necessary in order to comply with the selenium effluent limitations. The new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

- c. This Order establishes a time schedule to bring the waste discharge into compliance with the effluent limitations 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 limitations.
10. Per the requirements of CWC Section 13385(j)(3)(C)(i), an individual Cease and Desist Order or Time Schedule Order may provide protection from MMPs for no more than five years, except as provided in 13385(j)(3)(C)(ii). The compliance schedule in this Order does not exceed five years.
 11. Section 13267 of the California Water Code states in part: In conducting an investigation specified in subdivision (a), 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, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters 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.

The City of Woodland owns and operates the wastewater treatment plant and sewage collection system which is subject to this Order. The technical and monitoring reports required by this Order are necessary to determine compliance with the WDRs and with this Order

12. The time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds one year, therefore, this Order includes interim requirements and dates for achievement of compliance.
13. The interim effluent limitation for selenium in WDR Order R5-2009-0010 of 31 $\mu\text{g/L}$ as a daily maximum is reestablished in this TSO. Additionally, this Order contains a monthly average selenium interim effluent limitation of 9 $\mu\text{g/L}$, calculated with a 95% confidence limit as $2.0 \times \text{Standard Deviation} + \text{Mean}$, of the data in Finding 4.

14. The Central Valley Water Board finds that the Discharger can maintain compliance with the interim limitations included in this Order. Interim 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 limitations, however, establish an enforceable ceiling concentration until compliance with the effluent limitation can be achieved.

Other Regulatory Requirements

15. 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.”*
16. 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 R5-2009-0010, which requires compliance with the effluent limitations addressed by this Order. This Order serves to enforce Order R5-2009-0010. 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.
- 17. On 10 December 2009, the Central Valley Water Board adopted Resolution R5-2009-0114 to provide explicit authority to the Executive Officer to issue or modify time schedule orders, and to make this authority known to the public and regulated community. This Order may be issued by the Executive Officer of the Central Valley Water Board since no adverse public comments were received during the 30-day public comment period.
- 18. The Central Valley Water Board has notified the Discharger and interested agencies and persons of its intent to adopt a new Time Schedule Order for this discharge and has provided them with an opportunity to submit their written views and recommendations.

IT IS HEREBY ORDERED THAT:

- 1. The Discharger shall comply with the following time schedule to ensure compliance with the selenium effluent limitations at Section IV.A.1. contained in WDR Order R5-2009-0010 as described in the above Findings. All technical reports are required pursuant to CWC Section 13267.

<u>Task</u>	<u>Date Due</u>
Submit Method of Compliance Workplan/Schedule	Within 4 months of the date of this Order
Submit and Implement Pollution Prevention Plan pursuant to CWC section 13263.3(d)(2) for selenium Progress Reports ¹	Within 12 months of the date of this Order 30 January, annually, until final compliance
Project Completion	31 August 2016
Full compliance with final selenium effluent limitations	5 years from the date of this Order

¹ 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 shall be effective immediately. The interim effluent limitations for selenium shall be effective until 5 years from the date of this Order, or when the Discharger is able to come into compliance, whichever is sooner. These interim effluent limitations shall apply in lieu of the corresponding final effluent limitations specified for the same parameters during the time period indicated in this Order.

Parameter	Units	Maximum Daily Effluent Limitation	Average Monthly Effluent Limitation
Selenium	µg/L	31	9

3. 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. If compliance with these effluent limitations is not achieved by the full compliance date, the discharge would not be exempt from the mandatory minimum penalties for violation of certain effluent limitations, and would be subject to issuance of a Cease and Desist Order in accordance with CWC section 13301.

4. 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.”

5. 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 signed by the Executive Officer of the California Regional Water Quality Control Board, Central Valley Region, on **21 September 2011**.

Signed by Fredrick S. Moss for

PAMELA C CREEDON, Executive Officer