

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
COLORADO RIVER BASIN REGION**

CEASE AND DESIST ORDER NO. R7-2008-0067  
ISSUED TO  
MCCABE UNION SCHOOL DISTRICT, OWNER/OPERATOR  
MUNICIPAL WASTEWATER TREATMENT PLANT,  
COLLECTION AND DISPOSAL SYSTEMS  
EL CENTRO - IMPERIAL COUNTY

The California Regional Water Quality Control Board, Colorado River Basin Region, (hereinafter referred to as the Regional Board) finds that:

1. The McCabe Union School District, 701 West McCabe Road, El Centro, CA 92243 (hereinafter, Discharger) owns and operates a municipal wastewater treatment plant (WWTP) that provides sewerage services to the McCabe Union School District. According to a Report of Waste Discharge (ROWD) submitted by the Discharger and dated October 27, 2006, the WWTP has a designed capacity of 0.015 million gallons per day (MGD).
2. The Discharger is the owner of the McCabe Union School District Municipal WWTP, a publicly owned treatment works (POTW), and is operated by a Contract Operator.
3. The Facility consists of two packaged treatment systems that operate in series. The first system includes flow equalization, an aeration tank, and secondary clarification. The second package system was installed during the term of the previous permit and includes dual media filtration and ultraviolet (UV) disinfection. Solids are returned and wasted as required to maintain process operations.
4. The final effluent is discharged into the Wildcat Drain that flows approximately three (3) miles to Rice Drain No. 3 and then seven (7) miles before entering the New River, which is a tributary to the Salton Sea. The Wildcat Drain, New River, and Salton Sea are waters of the United States.
5. The designated beneficial uses of waters in the Drains and New River are:
  - a. Fresh Water Replenishment of Salton Sea (FRSH)
  - b. Industrial Service Supply (IND)<sup>1</sup>
  - c. Water Contact Recreation (REC I)<sup>2</sup>
  - d. Non-Contact Water Recreation (REC II)
  - e. Warm Water Habitat (WARM)
  - f. Wildlife Habitat (WILD)
  - g. Preservation of Rare, Threatened, or Endangered Species (RARE)<sup>3</sup>

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<sup>1</sup> Potential use

<sup>2</sup> Although some fishing occurs in the downstream reaches, the presently contaminated water in the river makes it unfit for any recreational use. An advisory has been issued by the Imperial County Health Department warning against the consumption of any fish caught from the river and the river has been posted with advisories against any body contact with the water.

6. On September 19, 2007, the Regional Board adopted Waste Discharge Requirements (WDRs) Order No. R7-2007-0035 (NPDES Permit No. CA0104281), which rescinded WDRs Order No. R7-2002-0001. WDRs Order No. R7-2007-0035 specifies effluent limitations, prohibitions, specifications, and provisions necessary to protect the beneficial uses of the surface and ground waters within the Colorado River Basin Region. WDRs Order No. R7-2007-0035 became effective on September 19, 2007 and will expire on September 19, 2012.
7. WDRs Order No. R7-2007-0035 established interim and final effluent limitations for Copper, Nickel, Pentachlorophenol and Zinc. In accordance with Special Provision VI.C.2.a, "The Discharger shall submit to the Regional Water Board a Copper, Nickel, Pentachlorophenol, and Zinc Infeasibility Report within 30 days of the effective date of this Order. If the Regional Water Board has not received the Copper, Nickel, Pentachlorophenol, and Zinc Infeasibility Report by October 19, 2007, the final effluent limitations for copper, nickel, Pentachlorophenol, and zinc, specified in Effluent Limitations, IV.A.1.a. of this Order are effective."
8. On January 22, 2008 and July 10, 2008, Regional Board staff requested that the Discharger submit the Infeasibility Report in accordance with the requirements of the WDRs Order. The Discharger was notified of the consequences of failure to submit the report.
9. On July 24, 2008, Regional Board staff met with representatives from the Discharger. Regional Board staff determined that the Discharger failed to prepare and submit the Infeasibility Report in accordance with the requirements of the WDRs Order; therefore the final effluent limitations for Copper, Nickel, Pentachlorophenol and Zinc became effective on October 19, 2007.
10. On August 4, 2008, Regional Board received a letter dated July 31, 2008 from the Discharger. The letter stated in part: "As a result of numerous incidents of noncompliance dating back to November of 2007, McCabe Union School District would like to request the issuance of a Cease & Desist Order (CDO) for our facility from the Regional Water Quality Control Board..."
11. WDRs Board Order No. R7-2007-0035 includes the following effluent discharge limitations necessary for the protection of state waters and states, in relevant part, the following:
  - a. Effluent Limitation IV.A.1.a:  
The Discharger shall maintain compliance with the following effluent limitations at Discharge Point 001, with compliance measured at Monitoring Location EFF-001 as described in the attached Monitoring and Reporting Program (MRP):

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<sup>3</sup> Rare, endangered, or threatened wildlife exists in or utilizes some of these waterway(s). If the RARE beneficial use may be affected by a water quality control decision, responsibility for substantiation of the existence of rare, endangered, or threatened species on a case-by-case basis is upon the California Department of Fish and Game on its own initiative and/or at the request of the Regional Board; and such substantiation must be provided within a reasonable time frame as approved by the Regional Board.

Parameter	Units	Effluent Limitations		
		Average Monthly	Average Weekly	Maximum Daily
Copper, Total Recoverable <sup>2</sup>	µg/L	2.9	---	5.8
	lbs/day <sup>1</sup>	0.00036	---	0.00073
Zinc, Total Recoverable <sup>2</sup>	µg/L	47	---	95
	lbs/day <sup>1</sup>	0.0059	---	0.012
Nickel, Total Recoverable <sup>2</sup>	µg/L	6.8	---	14
	lbs/day <sup>1</sup>	0.00085	---	0.0018

<sup>1</sup> The mass-based effluent limitations are based on a design capacity of 0.015 MGD.

<sup>2</sup> The effluent limitations for copper, nickel, pentachlorophenol and zinc are applicable on May 18, 2010 provided the Discharger submits an Infeasibility Report for copper, nickel, pentachlorophenol and zinc to the Regional Water Board by October 19, 2007.

12. Monitoring reports submitted by the Discharger show that the wastewater discharged from the Discharger's WWTP has been in chronic violation of its WDRs effluent limitations cited in Finding No. 11, above.
13. The Discharger has been in chronic violation of the effluent limitations set forth in Board Order No. R7-2007-0035. A summary of each chronic violation of Board Order No. R7-2007-0035 is contained in Attachment "A", which is made a part of this CDO by reference.
14. Section 13301 of the California Water Code (CWC) states in relevant parts:
 

"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 preventive 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 that system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order."
15. CWC Section 13385(h) and (i) require the Regional 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. 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."

16. Compliance with this Order exempts the Discharger from mandatory penalties for violations of effluent limitations in accordance with CWC Section 13385(j)(3) from the date of this Order's adoption by the Regional Board.
17. Specifically, pursuant to CWC 13385(j)(3)(B)(i), mandatory minimum penalties under 13385 (h) and (i) will not apply if the Discharger is not able to consistently comply with the effluent limitations for copper, zinc, and nickel established in the waste discharge requirements because:
  - a. These effluent limitations are new;
    - i. The effluent limitations for copper, zinc, and nickel were new parameters established in WDRs Order R7-2007-0035 which rescinded WDRs Order No. R7-2002-0001 on September 19, 2007.
  - b. These effluent limitations have become effective after the effective date of the WDRs and after July 1, 2000;
  - c. New or modified control measures are necessary in order to comply with the effluent limitations; and
  - d. The new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
18. CWC Section 13385(j)(3) requires the Discharger to prepare and implement a pollution prevention plan pursuant to Section 13263.3 of the CWC. Therefore, a pollution prevention plan will be necessary for copper, zinc, and nickel in order to effectively reduce the effluent concentrations by source control measures.
19. CWC Section 13263.3(d)(1) states in relevant part:

"The state board, a regional board, or a POTW may require a discharger subject to its jurisdiction to complete and implement a pollution prevention plan if any of the following apply:

(D) The discharger is subject to a cease and desist order issued pursuant to Section 13301..."
20. Issuance of this CDO to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.), in accordance with Section 15321 ("Enforcement Actions by Regulatory Agencies"), Title 14, California Code of Regulations.

**IT IS HEREBY ORDERED**, that in order to meet the provisions contained in Division 7 of the CWC and regulations adopted there under, the Discharger shall comply with the following:

1. The Discharger is required to prepare and implement a Pollution Prevention Plan pursuant to Section 13263.3 of the CWC. The Discharger must address all of the issues specified in Section 13263.3(d)(3) and shall take specific actions as indicated in the following time schedule to achieve compliance with all requirements of Board Order No. R7-2007-0035:

<b>Milestone</b>	<b>Milestone Description</b>	<b>Milestone Submittal</b>	<b>Completion Date</b>
1	Complete Final Design of Wastewater Treatment Plant Improvements	Submit a Copy of Final Design Drawings to the Regional Board	June 30, 2009
2	Complete Pollution Prevention Plan	Submit a Copy of the Pollution Prevention Plan to the Regional Board	June 30, 2009
3	Complete Construction of the Wastewater Treatment Plant Improvements	Submit Summary and Verification of Construction Completion	May 18, 2010
4	Achieve full compliance with Order No. R7-2007-0035 (NPDES Permit No. CA0104281)	Submit written certification that WWTP is in compliance with Order No. R7-2007-0035 (NPDES Permit No. CA0104281)	December 31, 2010

- Wastewater discharged to the Wildcat Drain shall not exceed the interim effluent limit for copper, zinc and nickel. The interim effluent limit is based on plant performance data, reference data from representative wastewater treatment facilities, and Best Professional Judgment (BPJ):

<b>Constituent</b>	<b>Unit</b>	<b>Maximum Daily &amp; Average Monthly Effluent Limits</b>
Copper, Total Recoverable	µg/L	46
	lbs/day	0.0024
Zinc, Total Recoverable	µg/L	204
	lbs/day	0.0264
Nickel, Total Recoverable	µg/L	42
	lbs/day	0.0054

- The Discharger shall submit quarterly reports, due by the 15<sup>th</sup> of January, April, July, and October of each year, on the status of the preparation and implementation of the Pollution Prevention Plan and associated Milestones listed in the Table above.
- As an alternative option to achieve compliance with all requirements of Board Order No. R7-2007-0035, the Discharger shall submit a report in the form of an engineering report describing alternative methods of treatment and disposal to phase out the discharge to waters of the United States. The report shall be submitted to the Regional Board by

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June 30, 2009. In addition to the requirements stated in Section 13263.3(d)(3), the report shall also include:

- a) A description of potential alternative methods of treatment and disposal,
  - b) A description of the environmental benefits of the chosen alternative method of treatment and disposal compared to the WWTPs current method,
  - c) A description of the plan to implement the chosen alternative method of treatment and disposal, and
  - d) A time schedule setting deadlines or milestones for each phase of implementation of the chosen alternative method of treatment and disposal to phase out the discharge to surface waters of the United States by May 18, 2010.
5. After the engineering report is submitted to the Regional Board by June 30, 2009, the Discharger shall submit quarterly reports, due by the 15<sup>th</sup> of January, April, July, and October of each year, on the status and progress of the preparation and implementation of the chosen alternative of treatment and disposal described above in paragraph 4(c).
  6. Plans and schedules are subject to the prior approval of the Executive Officer. Failure to comply with the terms of this Order may result in administrative civil liability of up to \$10,000 per day for each violation pursuant to Sections 13263.3(g), 13385(c)(1), and/or 13308 of the CWC.
  7. 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 California registered professionals (i.e., civil engineer, engineering geologist, geologist, etc.) competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain workplans, 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 a statement of qualifications of the responsible licensed professional(s) as well as the professional's signature and/or stamp of the seal.
  8. In addition, if in the opinion of the Regional Board's Executive Officer, the Discharger fails to comply with this Order, the Executive Officer may issue a complaint against the Discharger under Article 2.5, Chapter 5, Division 7 of the CWC, and seek the appropriate administrative civil liability and/or request the Attorney General to take appropriate action against the Discharger, including injunctive relief and civil monetary liability as deemed appropriate.

I, Robert Perdue, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of an Order adopted by the Regional Water Quality Control Board, Colorado River Basin Region, on November 19, 2008.

  
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ROBERT PERDUE  
Executive Officer

**ATTACHMENT "A"**

Summary of Violations of Board Order No. R7-2007-0035 Mandatory Minimum Penalties

<b>Assessed Violation No.<sup>1</sup></b>	<b>Date Occurred</b>	<b>Description of Violation</b>	<b>Serious Violation Defined by CWC 13385(h)</b>	<b>Amount Assessed Dollars (\$)</b>
777004	12/10/2007	Exceeded daily maximum limit of 5.8 µg/L for Copper Reported Value = 16 µg/L	Yes	\$3,000
777017	12/10/2007	Exceeded daily maximum limit of 95 µg/L for Zinc Reported Value = 170.0 µg/L	Yes	\$3,000
777010	12/31/2007	Exceeded average monthly limit of 2.9 µg/L for Copper Reported Value = 16.0 µg/L	Yes	\$3,000
777012	12/31/2007	Exceeded average monthly limit of 0.00036 lbs/day for Copper Mass Discharge Rate Reported Value = 0.00045 lbs/day	Yes	\$3,000
777016	12/31/2007	Exceeded average monthly limit of 6.8 µg/L for Nickel Reported Value = 11.0 µg/L	Yes	\$3,000
777018	12/31/2007	Exceeded average monthly limit of 47 µg/L for Zinc Reported Value = 170.0 µg/L	Yes	\$3,000
777075	01/14/2008	Exceeded daily maximum limit of 5.8 µg/L for Copper Reported Value = 13.0 µg/L	Yes	\$3,000
777081	01/23/2008	Exceeded daily maximum limit of 100 MPN/100 mL for Enterococci bacterial density Reported Value = 200.5 MPN/100 mL	No	\$3,000
777077	01/31/2008	Exceeded average monthly limit of 2.9 µg/L for Copper Reported Value = 13.0 µg/L	Yes	\$3,000
777078	01/31/2008	Exceeded average monthly limit of 0.00036 lbs/day for Copper Mass Discharge Rate Reported Value = 0.00049 lbs/day	No	\$3,000
777079	01/31/2008	Exceeded average monthly limit of 6.8 µg/L for Nickel Reported Value = 11.0 µg/L	Yes	\$3,000
777080	01/31/2008	Exceeded average monthly limit of 47 µg/L for Zinc Reported Value = 77.0 µg/L	Yes	\$3,000
777058	02/04/2008	Exceeded daily maximum limit of 5.8 µg/L for Copper Reported Value = 11.0 µg/L	Yes	\$3,000
777062	02/29/2008	Exceeded average monthly limit of 2.9 µg/L for Copper Reported Value = 11.0 µg/L	Yes	\$3,000
777063	02/29/2008	Exceeded average monthly limit of 0.00036 lbs/day for Copper Mass Discharge Rate Reported Value = 0.00046 lbs/day	No	\$3,000

<sup>1</sup> California Integrated Water Quality System (CIWQS)

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Assessed Violation No. <sup>1</sup>	Date Occurred	Description of Violation	Serious Violation Defined by CWC 13385(h)	Amount Assessed Dollars (\$)
777065	02/29/2008	Exceeded average monthly limit of 6.8 µg/L for Nickel Reported Value = 12.0 µg/L	Yes	\$3,000
777066	02/29/2008	Exceeded average monthly limit of 47 µg/L for Zinc Reported Value = 65.0 µg/L	Yes	\$3,000
777051	03/05/2008	Exceeded daily maximum limit of 5.8 µg/L for Copper Reported Value = 12.0 µg/L	Yes	\$3,000
777056	03/19/2008	Exceeded daily maximum limit of 100 MPN/100 mL for Enterococci bacterial density Reported Value = 200.5 MPN/100 mL	No	\$3,000
777052	03/31/2008	Exceeded average monthly limit of 2.9 µg/L for Copper Reported Value = 12.0 µg/L	Yes	\$3,000
777053	03/31/2008	Exceeded average monthly limit of 0.00036 lbs/day for Copper Mass Discharge Rate Reported Value = 0.00041 lbs/day	No	\$3,000
777054	03/31/2008	Exceeded average monthly limit of 6.8 µg/L for Nickel Reported Value = 10.0 µg/L	Yes	\$3,000
777055	03/31/2008	Exceeded average monthly limit of 47 µg/L for Zinc Reported Value = 80.0 µg/L	Yes	\$3,000
777037	04/01/2008	Exceeded daily maximum limit of 5.8 µg/L for Copper Reported Value = 15.0 µg/L	Yes	\$3,000
777039	04/30/2008	Exceeded average monthly limit of 2.9 µg/L for Copper Reported Value = 15.0 µg/L	Yes	\$3,000
777040	04/30/2008	Exceeded average monthly limit of 0.00036 lbs/day for Copper Mass Discharge Rate Reported Value = 0.00039 lbs/day	No	\$3,000
777042	04/30/2008	Exceeded average monthly limit of 6.8 µg/L for Nickel Reported Value = 12.0 µg/L	Yes	\$3,000
777043	04/30/2008	Exceeded average monthly limit of 47 µg/L for Zinc Reported Value = 59.0 µg/L	Yes	\$3,000
777045	04/30/2008	Exceeded daily maximum limit of 400 MPN/100 mL for E.Coli and 100 MPN/100 mL for Enterococci bacterial density Reported Values = 16,000 and 200 MPN/100 mL, respectively	No	\$3,000
777047	04/30/2008	Exceeded average monthly limit of 400 MPN/100 mL for Fecal Coliform bacterial density Reported Value = 16,000 MPN/100 mL	No	\$3,000
777019	05/05/2008	Exceeded daily maximum limit of 5.8 µg/L for Copper Reported Value = 38.0 µg/L	Yes	\$3,000



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Assessed Violation No. <sup>1</sup>	Date Occurred	Description of Violation	Serious Violation Defined by CWC 13385(h)	Amount Assessed Dollars (\$)
777020	05/05/2008	Exceeded daily maximum limit of 0.00073 lbs/day for Copper Mass Discharge Rate Reported Value = 0.0015 lbs/day	Yes	\$3,000
777024	05/05/2008	Exceeded daily maximum limit of 14 µg/L for Nickel Reported Value = 35.0 µg/L	Yes	\$3,000
777029	05/05/2008	Exceeded daily maximum limit of 95 µg/L for Zinc Reported Value = 770.0 µg/L	Yes	\$3,000
777030	05/05/2008	Exceeded daily maximum limit of 0.012 lbs/day for Zinc Mass Discharge Rate Reported Value = 0.025 lbs/day	Yes	\$3,000
777034	05/14/2008	Exceeded daily maximum limit of 400 MPN/100 mL for E.Coli and 100 MPN/100 mL for Enterococci bacterial density Reported Values = 1,600 MPN/100 mL	No	\$3,000
777021	05/31/2008	Exceeded average monthly limit of 2.9 µg/L for Copper Reported Value = 38.0 µg/L	Yes	\$3,000
777023	05/31/2008	Exceeded average monthly limit of 0.00036 lbs/day for Copper Mass Discharge Rate Reported Value = 0.0012 lbs/day	Yes	\$3,000
777027	05/31/2008	Exceeded average monthly limit of 6.8 µg/L for Nickel Reported Value = 35.0 µg/L	Yes	\$3,000
777028	05/31/2008	Exceeded average monthly limit of 0.00085 lbs/day for Nickel Mass Discharge Rate Reported Value = 0.0011 lbs/day	Yes	\$3,000
777032	05/31/2008	Exceeded average monthly limit of 47 µg/L for Zinc Reported Value = 770.0 µg/L	Yes	\$3,000
777033	05/31/2008	Exceeded average monthly limit of 0.0059 lbs/day for Zinc Mass Discharge Rate Reported Value = 0.025 lbs/day	Yes	\$3,000
784789	06/04/2008	Exceeded daily maximum limit of 5.8 µg/L for Copper Reported Value = 12.0 µg/L	Yes	\$3,000
784790	06/30/2008	Exceeded average monthly limit of 2.9 µg/L for Copper Reported Value = 12.0 µg/L	Yes	\$3,000
784791	06/30/2008	Exceeded average monthly limit of 0.00036 lbs/day for Copper Mass Discharge Rate Reported Value = 0.0036 lbs/day	Yes	\$3,000
785074	07/07/2008	Exceeded daily maximum limit of 400 MPN/100mL for E.Coli Reported Value = 1,600 MPN/100mL	No	\$3,000
785067	07/16/2008	Exceeded daily maximum limit of 5.8 µg/L for Copper Reported Value = 14.0 µg/L	Yes	\$3,000

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Assessed Violation No. <sup>1</sup>	Date Occurred	Description of Violation	Serious Violation Defined by CWC 13385(h)	Amount Assessed Dollars (\$)
785071	07/31/2008	Exceeded average monthly limit of 2.9 µg/L for Copper Reported Value = 14.0 µg/L	No	\$3,000
785076	07/31/2008	Exceeded average monthly limit of 400 MPN/100 mL for Fecal Coliform bacterial density Reported Value = 1,000 MPN/100 mL	No	\$3,000
784793	08/11/2008	Exceeded daily maximum limit of 5.8 µg/L for Copper Reported Value = 16.0 µg/L	Yes	\$3,000
785051	08/31/2008	Exceeded average monthly limit of 2.9 µg/L for Copper Reported Value = 16.0 µg/L	Yes	\$3,000

**Total: \$153,000**