

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

CEASE AND DESIST ORDER NO. R7-2009-0001  
ISSUED TO  
CITY OF WESTMORLAND, OWNER/OPERATOR  
MUNICIPAL WASTEWATER TREATMENT PLANT  
Westmorland - Imperial County

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

1. The City of Westmorland, 5305 Martin Road, Westmorland, CA 92281 (hereinafter, Discharger) owns and operates a sewage collection and disposal system and provides sewerage services to the City of Westmorland. The WWTP has a designed capacity of 0.50 million gallons per day (MGD), serving a population of 2,400.
2. The wastewater treatment plant (WWTP) consists of a sewage pump station, an influent flow meter, an oxidation ditch, two twenty-eight foot clarifiers, chlorine contact chambers, dechlorination operations and constructed wetlands. The Discharger may divert all of the chlorinated effluent flow, a portion of, or no flow to the constructed wetlands prior to the discharge to Trifolium Drain No. 6.
3. Effluent from the WWTP is discharged from Discharge Point 001 to the Trifolium Drain No. 6 that flows to the New River, which is a tributary to the Salton Sea. The Trifolium Drain No. 6, New River, and Salton Sea are waters of the United States.
4. The Water Quality Control Plan (Basin Plan) for the Colorado River Basin, as amended to date, designates the beneficial uses of ground and surface waters in the Region.
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>
6. On January 16, 2002, the Regional Board adopted Waste Discharge Requirements (WDRs) Order No. R7-2002-0004 (NPDES Permit No. CA0105007) for the Discharger to regulate discharges of treated municipal wastewater from the WWTP.

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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.

<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.

7. WDRs Order No. R7-2002-0004 includes the following effluent discharge limitations:
  - a. Effluent Limitation A.3:  
“The hydrogen ion (pH) of the effluent shall be maintained within the limits of 6.0 to 9.0.”
  - b. Effluent Limitation A.5:  
“Beginning October 1, 2002, effluent discharged to Trifolium Drain No. 6 shall not have Escherichia Coli (E. coli) concentration in excess of a log mean of Most Probable Number (MPN) of 126 MPN per 100 milliliters (based on a minimum of no less than five (5) samples for any 30-day period) nor shall any sample during any 30-day period exceed 400 MPN per 100 milliliters.”
8. According to monitoring reports submitted by the Discharger, the wastewater discharged from the Discharger’s WWTP was in chronic violation of its WDRs effluent limitations cited in Finding 7. A summary of each violation of Order R7-2002-0004 is contained in Attachment “A1,” which is made a part of this Cease and Desist Order (CDO) by reference.
9. On September 19, 2007, the Regional Board adopted WDRs Order No. R7-2007-0034 (NPDES Permit No. CA0105023) for the Discharger to regulate discharges of treated municipal wastewater from the WWTP. This Board Order rescinds Board Order No. R7-2002-0004.
10. WDRs Order No. R7-2007-0034 contains the following discharge limitations:  
Effluent Limitation A.1. d:  
“**Bacteria:** The bacterial concentrations in the wastewater effluent discharged to the New River shall not exceed the following concentrations, as measured by the following bacterial indicators:
  - i. **E. Coli.** The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a Most Probable Number (MPN) of 126 MPN per 100 milliliters, nor shall any sample exceed the maximum allowable bacterial density of 400 MPN per 100 milliliters.
  - ii. **Enterococci.** The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a MPN of 33 MPN per 100 milliliters, nor shall any sample exceed the maximum allowable bacterial density of 100 MPN per 100 milliliters.
  - iii. **Fecal Coliform.** The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a MPN of 200 MPN per 100 milliliters, nor shall more than ten percent of the total samples during any 30-day period exceed 400 MPN per 100 milliliters.”
11. Monitoring reports submitted by the Discharger show that the wastewater discharged from the WWTP was in violation of its WDRs cited in Finding No. 10 above. A summary of each violation of Board Order R7-2007-0034 is contained in Attachment “A2”, which is made a part of this CDO by reference.

12. 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.”

13. The Discharger has been in violation and threatens violation of the requirements contained in Board Order No. R7-2007-0034.
14. 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.”
15. Compliance with this Order exempts the Discharger from mandatory minimum 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.
16. 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 enterococci, *Escherichia coli* (*E. coli*), and fecal coliform established in the WDRs because:
- a. These effluent limitations are new;
    - i. The effluent limitations for enterococci, *E. coli*, and fecal coliform were new parameters established in WDR Order R7-2007-0034 which rescinded WDRs Order No. R7-2002-0004 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.

17. 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 enterococci, *E. coli*, and fecal coliform in order to effectively reduce the effluent concentrations by source control measures.
18. 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...”
19. Issuance of this Cease and Desist Order 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.
20. Any person aggrieved by this action of the Regional 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 no later than 5:00 p.m., thirty (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). Copies will also be provided upon request.

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


1. The Discharger is required to prepare and implement a Pollution Prevention Plan to address the bacteria noncompliance pursuant to Section 13263.3 of the CWC. The Discharger must address all of the issues specified in Section 13263.3(d)(3)(A) through (I) and shall take specific actions as indicated in the following time schedule to achieve compliance with all requirements of Board Order No. R7-2007-0034:

Milestone	Milestone Description	Milestone Submittal	Completion Date
1	Complete evaluation of bacteria noncompliance and recommendations for WWTP improvements	Submit a technical report consisting of a copy of the Final Design Drawings to the Regional Board	December 31, 2009
2	Complete Pollution Prevention Plan	Submit technical report consisting of the Pollution Prevention Plan to the Regional Board	December 31, 2009
3	Complete construction of WWTP improvements	Submit a technical report consisting of summary and verification of WWTP improvements completion	September 30, 2010
4	Achieve full compliance with Order No. R7-2007-0034 (NPDES Permit No. CA0105023)	Submit written certification that WWTP is in compliance with Order No. R7-2007-0034 (NPDES Permit No. CA0105023)	December 31, 2010

2. Wastewater discharged to the Trifolium Drain No. 6 shall not exceed the interim effluent limits for *E. coli*, enterococci and fecal coliform. The interim effluent limits are based on plant performance data, reference data from representative wastewater treatment facilities, and Best Professional Judgment (BPJ):
  - i. ***E. Coli***. The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a Most Probable Number (MPN) of 630 MPN per 100 milliliters, nor shall any sample exceed the maximum allowable bacterial density of 2000 MPN per 100 milliliters.
  - ii. **Enterococci**. The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a MPN of 330 MPN per 100 milliliters, nor shall any sample exceed the maximum allowable bacterial density of 1000 MPN per 100 milliliters.
  - iii. **Fecal Coliform**. The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a MPN of 500 MPN per 100 milliliters, nor shall more than ten percent of the total samples during any 30-day period exceed 2000 MPN per 100 milliliters.”
3. 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.
4. As an alternative option to achieve compliance with all requirements of Board Order No. R7-2007-0034, 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 September 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 December 31, 2010.
5. After the engineering report is submitted to the Regional Board by September 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.
  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 January 22, 2009.

  
ROBERT PERDUE  
Executive Officer

**ATTACHMENT "A1"**

Summary of Violations of Board Order No. R7-2002-0004 Mandatory Minimum Penalties

<b>Assessed Violation<sup>1</sup> No.</b>	<b>Date Occurred</b>	<b>Description of Violation</b>	<b>Serious Violation Defined by CWC 13385(h)</b>	<b>Amount Assessed Dollars (\$)</b>
786553	1/17/2007	Exceeded pH unit; Limited value: 9.0 Reported value: 9.08	No	0 <sup>2</sup>
786554	1/31/2007	Exceeded pH unit; Limited value: 9.0 Reported value: 9.17	No	0 <sup>2</sup>
786558	2/14/2007	Exceeded pH unit; Limited value: 9.0 Reported value: 9.13	No	0 <sup>2</sup>
786559	3/28/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value >1,600 MPN/100 mL	No	3,000
786561	4/04/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value >1,600 MPN/100 mL	No	3,000
786562	4/23/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 900 MPN/100 mL	No	3,000
786564	4/30/2007	Exceeded 30-day average for E. coli Limitation = 126 MPN/100 mL; Reported value = 478 MPN/100 mL	No	3,000
786565	5/2/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 500 MPN/100 mL	No	3,000
786566	5/9/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 9,000 MPN/100 mL	No	3,000
786567	5/23/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 1,600 MPN/100 mL	No	3,000
786570	5/30/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 500 MPN/100 mL	No	3,000
786571	5/30/2007	Exceeded 30-day average for E. coli Limitation = 126 MPN/100 mL; Reported value = 1,016 MPN/100 mL	No	3,000
786574	6/6/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 500 MPN/100 mL	No	3,000
786575	6/13/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 1,600 MPN/100 mL	No	3,000
786576	6/20/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 1,600 MPN/100 mL	No	3,000
786584	6/27/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 1,600 MPN/100 mL	No	3,000

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

<sup>2</sup> This is a supporting violation

City of Westmorland  
City of Westmorland Wastewater Treatment Plant  
Cease and Desist Order No. R7-2009-0001

<b>Assessed Violation<sup>1</sup> No.</b>	<b>Date Occurred</b>	<b>Description of Violation</b>	<b>Serious Violation Defined by CWC 13385(h)</b>	<b>Amount Assessed Dollars (\$)</b>
786585	6/30/2007	Exceeded 30-day average for E. coli Limitation = 126 MPN/100 mL; Reported value = 1,196 MPN/100 mL	No	3,000
786589	7/03/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 500 MPN/100 mL	No	3,000
786592	7/11/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value > 1,600 MPN/100 mL	No	3,000
786593	7/18/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 1,600 MPN/100 mL	No	3,000
786594	7/23/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 1,600 MPN/100 mL	No	3,000
786596	7/25/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 1,600 MPN/100 mL	No	3,000
786597	7/30/2007	Exceeded 30-day average for E. coli Limitation = 126 MPN/100 mL; Reported value = 1,268 MPN/100 mL	No	3,000
786605	8/01/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 900 MPN/100 mL	No	3,000
786609	8/08/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value > 1,600 MPN/100 mL	No	3,000
786611	8/15/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value > 1,600 MPN/100 mL	No	3,000
786612	8/22/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 500 MPN/100 mL	No	3,000
786614	8/29/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value > 1,600 MPN/100 mL	No	3,000
786616	8/30/2007	Exceeded 30-day average for E. coli Limitation = 126 MPN/100 mL; Reported value = 1,130 MPN/100 mL	No	3,000
786622	9/05/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value > 1,600 MPN/100 mL	No	3,000

Accrued Mandatory Minimum Penalty: \$81,000

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



**ATTACHMENT "A2"**

Summary of Violations of Board Order No. R7-2007-0034 Mandatory Minimum Penalties

<b>Assessed Violation<sup>1</sup> No.</b>	<b>Date Occurred</b>	<b>Description of Violation</b>	<b>Serious Violation Defined by CWC 13385(h)</b>	<b>Amount Assessed Dollars (\$)</b>
786626	11/21/2007	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 1,600 MPN/100 mL	No	3,000
786627	11/30/2007	No more than 10% of the effluent fecal coliform samples collected during any 30-day period shall exceed 400 MPN/100 mL. One in five or 20% of the fecal coliform samples reported >400 MPN/100 mL	No	3,000
786638	1/02/2008	Exceeded daily maximum for E. coli Limitation = 400 MPN/100 mL; Reported value = 1,600 MPN/100 mL	No	3,000
786642	1/30/2008	No more than 10% of the effluent fecal coliform samples collected during any 30-day period shall exceed 400 MPN/100 mL. One in five or 20% of the fecal coliform samples reported >400 MPN/100 mL	No	3,000
786549	4/23/2008	Exceeded daily maximum for Enterococci Limitation = 100 MPN/100 mL; Reported value = 135.8 MPN/100 mL	No	3,000
786719	5/06/2008	Exceeded daily maximum for Enterococci Limitation = 100 MPN/100 mL; Reported value = 200.5 MPN/100 mL	No	3,000
786720	5/30/2008	Exceeded 30-day average for Enterococci Limitation = 33 MPN/100 mL; Reported value = 75 MPN/100 mL	No	3,000
786721	6/18/2008	Exceeded daily maximum for Enterococci Limitation = 100 MPN/100 mL; Reported value = 200.5 MPN/100 mL	No	3,000
786722	7/30/2008	Exceeded daily maximum for Enterococci Limitation = 100 MPN/100 mL; Reported value = 200.5 MPN/100 mL	No	3,000

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

Accrued Mandatory Minimum Penalty: \$27,000

**Total: \$108,000**