

California Regional Water Quality Control Board, Colorado River Basin
Prosecution Team Evidence
on the matter of
Administrative Civil Liability Complaint R7-2014-0041
Exhibit 4

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

CEASE AND DESIST ORDER NO. R7-2008-0008

ISSUED TO

CITY OF BRAWLEY, OWNER/OPERATOR
MUNICIPAL WASTEWATER TREATMENT PLANT, AND
WASTEWATER COLLECTION AND DISPOSAL SYSTEMS
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 Brawley, 400 Main Street, Brawley, California, 92227 (hereinafter referred to as Discharger) owns and operates a municipal Wastewater Treatment Plant (WWTP) and sewage collection system serving the City. The WWTP has a purported design capacity of 5.9 million gallons per day (MGD) as stated in the Report of Waste Discharge (ROWD) submitted by the Discharger on January 14, 2005 for permit renewal.
2. The WWTP consists of headworks, three primary clarifiers, five lagoons, an ultraviolet (UV) disinfection system, and sludge drying beds. The three primary clarifiers have not been in service since digesters were removed in 2002 due to excessive corrosion of the digester system's steel structure. The first and second aerated lagoons operate in parallel. Aerated lagoons 1 and 2 operate in series with lagoons 3, 4, and 5.
3. The WWTP treats and disposes of an average daily flow of 3.4 MGD of wastewater. The effluent from the lagoons is UV-disinfected and then discharged to the New River, which is a tributary to the Salton Sea. The New River and the 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 New River are:
 - a. Fresh Water Replenishment of Salton Sea (FRSH)
 - b. Industrial Service Supply (IND)¹
 - c. Water Contact Recreation (REC I)²
 - 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)³

¹ Potential use

² 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.

³ 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.

Regulatory History

6. On March 29, 1995, the Regional Board adopted Waste Discharge Requirements (WDRs) Order No. 95-014 (NPDES Permit No. CA0104523) to regulate the discharge from the Discharger's WWTP.
7. On November 4, 1998, Regional Board staff issued a notice of noncompliance against the Discharger documenting 11 flow violations. On April 30, 1999, the Regional Board Executive Officer issued Time Schedule Order (TSO) No. 99-054 against the Discharger because the Discharger's WWTP lacked sufficient treatment capacity and, consequently, violated and threatened violations of Order No. 95-014. TSO No. 99-054 provided the Discharger until March 1, 2002 to complete WWTP treatment capacity expansion.
8. The Discharger did not complete the plant expansion required by TSO No. 99-054 until the end of 2002, in violation of TSO No. 98-054 due to delays during construction of the expansion. No enforcement action was taken by the Regional Board for the violation of the TSO.
9. On June 28, 2000, the Regional Board adopted WDRs Order No. 00-087 (NPDES Permit No. CA0104523), which superseded WDRs Order No. 95-014 except for enforcement purposes, and specified effluent limitations, prohibitions, specifications, and provisions necessary to protect the beneficial uses of the surface and ground waters within the Colorado River Basin Region.
10. On July 31, 2000, the Regional Board Executive Officer issued Administrative Civil Liability Complaint (ACLC) No. 00-108 consisting of a Mandatory Minimum Penalty (MMP) of \$3,000 against the Discharger for chronic violations of the total suspended solids (TSS) and biochemical oxygen demand (BOD) limits of Board Order No. 95-014. The Discharger paid the MMP.
11. The Regional Board issued Notices of Noncompliance to the Discharger on April 9, May 21, and June 20, 2001 for violations of toxicity effluent limitations in Board Order No. 00-087.
12. On September 17, 2001, the Regional Board Executive Officer issued ACLC No. 01-194 against the Discharger for chronic violations of the toxicity effluent limits of Order No. 00-087. The ACLC proposed an MMP of \$6,000 for the chronic violations. The Discharger paid the MMP.
13. Pursuant to chronic violations of the toxicity effluent limits of Order No. 00-087, Regional Board staff requested the Discharger in a letter dated July 10, 2001 to complete a Toxicity Identification Evaluation (TIE) that year. The Discharger began the TIE, but failed to complete all phases of the evaluation. On November 12, 2002, another staff letter was issued to the Discharger, requesting a second TIE to determine the source of toxicity.
14. The TIE reports identified that ammonia was the primary toxicant in the WWTP discharge. The Discharger submitted a TIE report dated July 2, 2001 and a second one dated July 3, 2002.

15. Board Order No. 00-087, Section F, Pretreatment Program states, in part, that:
- “a. The Discharger shall be responsible for the performance of all pretreatment requirements contained in CFR, Part 40, Section 403, and shall be subject to enforcement actions, penalties, and other remedies by the US Environmental Protection Agency, or the Regional Board, as provided in the Federal Clean Water Act, as amended (33USC 1251 et. seq.) (hereafter “Act”).”
 - “b. The Discharger shall implement and enforce its Pretreatment Program. The Discharger’s pretreatment program is hereby made an enforceable condition of this Board Order....”
16. On November 20, 2001, the Discharger adopted Wastewater Pretreatment Ordinance No. 2001-08 to prevent the introduction of industrial pollutants that will either pass through or interfere with the city’s treatment facilities and to enable the Discharger to comply with WDRs Order No. 00-087.
17. On March 19, 2002, the Regional Board Executive Officer issued ACLC No. R7-2002-0095 against the Discharger for chronic violations of TSS, BOD, and toxicity effluent limits of Order No. 00-087. The ACLC proposed an MMP of \$33,000 for the violations. The Discharger paid the MMP.
18. During the spring of 2002, and pursuant to its Pretreatment Ordinance, the Discharger conducted surveys and sampling of its sewage collection system to identify whether there were discharges into the system that violate the Discharger’s Ordinance and/or contribute to the noncompliance with WDRs Order No. 00-087. The surveys conducted by the Discharger were inconclusive. The Discharger cited Brawley Beef Company (now National Beef Company) for discharging high levels of ammonia, issuing Notices of Violations (NOV) on 3/11/03, 2/23/04, 9/30/04, and 12/16/04. In the first NOV, it states: “Should your pretreatment operations not come into compliance within the time frame (6/1/03) provided, sewer service may be discontinued unless adequate treatment facility devices or other related appurtenances are installed and properly operated.” In another letter, the City mentions the \$3,000 MMPs that the Regional Board is required to assess for effluent violations.
19. In a letter dated November 12, 2002, staff directed the Discharger to conduct and submit the Toxicity Reduction Evaluation (TRE) by January 10, 2003. According to the TRE submitted by the Discharger on January 9, 2003 in the section titled “Wastewater Optimization for Ammonia Reduction”, the wastewater treatment operators implemented the following changes to the five aerated lagoons:
- Effluent baffles on cells A2, S1, S2, and S3 have been installed to reduce TSS and BOD at the effluent discharge.
 - A polypropylene fence with 4”x4” square holes has been installed along the north end of cells S2 and S3 to provide a habitat for nitrifying bacteria.
 - A2 has 90 HP of aeration to operate as a complete mix system.
 - Cells A2, S1, S2, and S3 were evaluated for short-circuiting. Results of the tests were deemed negative.
 - All cells are being monitored for ammonia concentration on a weekly basis.
 - The City is evaluating the best location for a return line.

20. On April 15, 2003, the Discharger reported that it found discharges into its collection system that were in noncompliance with its Pretreatment Ordinance, including from the Brawley Beef Company (a.k.a. National Beef, Inc.) plant and from a fertilizing spreading business.
21. On February 9, 2004, the Regional Board Executive Officer issued ACLC No. R7-2004-0026 against the Discharger for chronic violations of the acute toxicity limit of WDRs Order No. 00-087. The ACLC proposed an MMP of \$33,000 for the violations. In lieu of paying the MMP, the Discharger proposed a Compliance Project (CP) to correct the violations. The Board approved the CP that included removal of sludge from the drying beds, removal and cleaning of A1 lagoon's accumulated sludge, and the complete use of all five lagoons at the WWTP. The CP failed to correct the violations.
22. On June 23, 2004, the Discharger submitted a proposal in the form of an outline with tasks and milestones to bring the discharge from its WWTP in compliance with Board Order No. 00-087. The proposal consisted of the design and construction of improvements to the WWTP as follows:

Description of Tasks — Time Period

- a. Adjust Pretreatment Ordinance discharge limits, July 2004 - December 2004
 - b. Prepare CEQA documentation, if necessary, July 2004 - December 2004
 - c. Conduct TIE, July 2004 - December 2004
 - d. Review/discuss TIE results and necessary mitigation, January - February 2005
 - e. Design treatment facility upgrades, February 2005 - May 2005
 - f. Acquire necessary permits, February 2005 - May 2005
 - g. Construction, June 2005 - December 2005
23. On June 30, 2004, the Regional Board Executive Officer issued Cleanup and Abatement Order (CAO) No. R7-2004-0079 requiring the Discharger to correct the toxicity violations and threatened violations of Order No. 00-087. The CAO was issued after ten notices of noncompliance were sent to the Discharger on the following dates: 5/13/03, 6/14/03, 7/23/03, 9/4/03, 11/7/03, 12/26/03, 3/15/04, 4/28/04, 6/2/04, and 6/22/04.

The CAO milestones and actual completion dates are as follows:

<u>Milestone</u>	<u>Milestone Description</u>	<u>Milestone Submittal</u>	<u>Completion Date</u>
1.A	Complete Toxicity Identification Evaluation (TIE)	Submit a Copy of the Toxicity Identification Evaluation to the Regional Board	January 31, 2005 (Actual: 1/27/05)
1.B	Complete Design of the Wastewater Treatment Plant Upgrades	Submit a Copy of Final Design Drawings and Specification to the Regional Board	June 30, 2005 (Actual: 2/14/05)
1.C	Complete Construction of the Wastewater Treatment Plant Upgrades	Submit Summary and Verification of Construction Completion	January 31, 2006 (Actual: 7/7/06)
1.D	Complete Operational Startup of New Wastewater Treatment Plant Upgrades	Submit Operation and Maintenance Program for Wastewater Treatment Plant Upgrades	February 1, 2007 (Actual: 1/31/07)

24. On June 29, 2005, the Regional Board adopted WDR Order No. R7-2005-0021 (NPDES Permit No. CA0104523), which rescinded Board Order No. 00-087 except for enforcement purposes. WDRs Order No. R7-2005-0021 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.
25. WDR Order No. R7-2005-0021 contains the following discharge limitations:

“[1.b.] Final Effluent Limitations for Discharge Point 001

“Either beginning on February 1, 2007 or if the commencement of discharges from the upgraded WWTP designed for nitrification and denitrification is completed prior to February 1, 2007 and as certified required by Provision VI.C.2.d the discharge of treated wastewater shall maintain compliance with the following limitations at Discharge Point M-001, with compliance measured at monitoring location M-001A as described in the attached Monitoring and Reporting Program (Attachment E).

Constituents	Units	Effluent Limitations	
		Average Monthly	Maximum Daily
Total Ammonia as Nitrogen	mg/L	1.1	12
	lbs/day ¹	54	590

“[2.a.] Interim Effluent Limitations

“During the period beginning June 29, 2005 and ending on May 18, 2010, the discharge of effluent wastewater shall maintain compliance with the following limitations at Discharge Point 001, with compliance measured at Monitoring Location M-001A as described in the attached Monitoring and Reporting Program.

Constituents	Units	Effluent Limitations	
		Average Monthly	Maximum Daily
Free Cyanide	µg/L	76	76
	lbs/day	3.7	3.7
Zinc ²	µg/L	62	95
	lbs/day	3.1	4.7

“[2.e.] Final Effluent Limitations

“Wastewater effluent discharged to the New River shall not have an *Escherichia coli* (E. coli) concentration in excess of a log mean of Most Probable Number (MPN) of 126 MPN/100 mL (based on a minimum of not less than five samples for any 30-day period) nor shall any sample exceed 400 MPN/100 mL.”

¹ Based on a flow of 5.9 MGD

² Total Recoverable

26. Receiving Water Limitations V.A.1.j. and k. of Board Order No. R7-2005-0021 state:

“Receiving water limitations are based upon water quality objectives contained in the Basin Plan. As such they are required part of this Order. The discharge shall not cause the following in the New River:

“[j.] No individual chemical or combination of chemicals shall be present in concentrations that adversely affect beneficial uses.

[k.] Toxic pollutants to be present in the water column, sediments or biota in concentrations that adversely affect beneficial uses or that produce detrimental physiological responses in human, plant, animals, or aquatic life.”

27. Board Order No. R7-2005-0021, Provisions VI, Special Provisions Section C.6., Pretreatment Program “b” states, in part, that:

“i. In the event that there are industrial wastes subject to regulation under the NPDES Pretreatment Program being discharged to the WWTP....then...(3) The Discharger shall enforce the federal categorical pretreatment standards on all Categorical Industrial Users (CIUs)

(4) The Discharger shall notify the CIU of its discharge effluent limits. The limit must be as stringent as the pretreatment standards...

“iii. The Regional Board retains the right to take legal action against an industrial user and/or the Discharger where a user fails to meet the approved applicable pretreatment standards.”

28. Board Order No. R7-2005-0021, Section Provisions VI, Regional Board Standard Provision A.2.d states:

“The Discharger’s wastewater treatment plant shall be supervised and operated by persons possessing certification of appropriate grade pursuant to Section 3680, Chapter 26, Division 3, Title 23 of the California Code of Regulations. The Discharger shall ensure that all operating personnel are familiar with contents of this Board Order.”

29. The Discharger’s WWTP is a Class III facility based on its treatment process and design flow of 5.9 MGD. For the last several years, the Discharger did not have a Grade III WWTP certified operator on staff in violation of Section 3680, Chapter 26, Division 3, Title 23 of the California Code of Regulation. The Discharger hired a Grade III Chief Operator on January 22, 2008 to comply with the subject regulations. Nevertheless, it is now proposing to upgrade its POTW such that the proposed upgrades would require a Chief Operator with higher level of certification. Therefore, this Order provides for the Discharger to have a Chief operator whose certification is commensurate with the proposed plant upgrades.

30. The Discharger has been in chronic violation of the effluent limitations set forth in Board Orders No. 00-087 and No. R7-2005-0021. A summary of each chronic violation of Board Order No. R7-2005-0021 is contained in Attachment “A”, which is made a part of this CDO by reference.

31. In late 2004 the Discharger contracted with Nolte Associates, Inc. for the research, design, and construction for improvements to the existing WWTP. Improvements to the existing WWTP included the reconfiguration of the existing treatment facilities' flow distribution system and the installation of flow return pumps. The new pumping and piping system were designed to optimize nitrification and denitrification of the wastewater flowing through the treatment process to address the ammonia toxicity. The completion of the improvements was on July 7, 2006. The improvements have failed to correct the violations.
32. In a letter dated December 8, 2006, Regional Board staff reminded the Discharger that the new effluent limitation for ammonia of 1.1 mg/L would become effective on February 1, 2007. The letter also noted that the Discharger had not submitted notice that Milestone No. 1.C of CAO No. R7-2004-0079 was completed and that enforcement action could be taken for this noncompliance with the CAO.
33. In a meeting on January 23, 2007 with Regional Board and USEPA staff, the Discharger requested assistance from the Regional Board to review the appropriateness of the total ammonia effluent limitation in the permit and to evaluate the City of Brawley's Pretreatment Program and the City's oversight of that program. Regional Board staff conducted the requested review and evaluation. Regional Board staff informed the Discharger orally on February 1, 2007 that the total ammonia effluent limitation for the City of Brawley is similar to other dischargers' ammonia limits in the region.
34. In a letter dated January 30, 2007, the Discharger informed Regional Board staff that the Ammonia Removal Enhancement Project at the WWTP required by the CAO was completed July 7, 2006. Preliminary WWTP operation showed that the new WWTP design does not meet the total ammonia concentration limit, which became effective February 1, 2007. The plant is discharging ammonia nitrogen at levels approximately 30 times above the average monthly limit of 1.1 mg/L. Under the new ammonia effluent limitations cited in Finding No. 21, the Discharger is now having ten (10) violations per month subject to MMPs of \$3,000 per violation. This will total \$30,000 per month, starting in February 2007.
35. On February 22, 2007, the Regional Board Assistant Executive Officer issued ACLC No. R7-2007-0026 against the Discharger for zinc, free cyanide, and E. coli violations of Order No. R7-2005-0021. The ACLC proposed an MMP of \$36,000 for the violations. In lieu of paying the MMP, the Discharger has proposed a CP to correct the violations. The CP is under consideration by Regional Board staff.
36. On March 22, 2007, the Discharger submitted to the Regional Board an outline with the Discharger's proposed schedule of events, including the design and construction of improvements to the WWTP to bring discharges into compliance with Board Orders. The Discharger's proposed schedule called for POTW upgrades that would take five years to complete. Under such scenario, the Discharger would not achieve compliance with its NPDES permit until May 2012. In response to concerns expressed by the Assistant Executive Officer about the timing for compliance, the Discharger agreed, in a letter dated February 4, 2008, to take every effort within its control to achieve compliance by December 2010.
37. On September 25, 2007, Regional Board orally informed the Discharger that ACLC No. R7-2007-0026 had been rescinded.

38. On October 2, 2007, the Brawley City Council approved the consulting service contract for engineering services for the WWTP Improvement Project from Lee & Ro, Inc. not to exceed \$1,199,994.00. According to the City staff report: "The WWTP Improvement Project when completed will enable the City to comply with all of its mandated NPDES requirements issued from the California Regional Water Quality Control Board, Region 7."
39. An inspection report for the Brawley WWTP prepared by State Water Board staff dated October 16, 2007, notes that Regional Board Order No. R7-2005-0021 gives the Regional Board authority to take legal action against an industrial user and/or the discharger where a user fails to meet the approved applicable pretreatment standards (Sec. VI.6.d). That authority can also be found in the CWC Sec. 13385(a)(6). This issue was discussed among the Regional Board, USEPA, and State Board staff in January of 2007 and a decision was reached to provide the City with an opportunity to reign in its industrial users and truly enforce its pretreatment ordinance. Regional Board enforcement against the City was also discussed during the meeting.
40. In the spring of 2002 the City conducted surveys and sampling of its sewage collection system to identify whether there were discharges into the system that violate the Discharger's Ordinance and/or contribute to the noncompliance with WDRs Order No. 00-087. The City identified several Categorical Industrial Users (CIUs), one of the CIUs is the Brawley Beef Company (now National Beef Company) that discharged high levels of ammonia (NH₃) into the City's sewage collection system. Monthly monitoring reports submitted by the Discharger from October 2002 to the present show that the Discharger has issued only four (4) Notice of Violations (NOVs) in 2003 and 2004 for exceeding the ammonia concentration limit for Brawley Beef Co. Each time the Discharger requested a plan for satisfactory correction and prevention of the violations.
41. Although Section 22.75 of the City's Wastewater Pretreatment Ordinance No. 2001-8 authorizes the City Manager or his designee to impose fines up to \$5,000 per violation/day, the Discharger never imposed any fines against the National Beef Company for violation of the pretreatment limits.
42. The Discharger has failed to effectively enforce its pretreatment ordinance to control the loading contribution from one of its major industrial users to the WWTP, in violation of Provision VI.C.6.b. of Board Order No. R7-2005-0021. It has continued to approve new development, which, coupled with WWTP shortcomings, has also increased the loading into the WWTP and contributed to the severity of the violations of Order No. R7-2005-0021.
43. The Discharger's WWTP is a publicly owned treatment works (POTW) as defined in 40 CFR 403.3. In spite of this, the Discharger has determined that the importance of industry and continued growth to the community warranted the Discharger accepting full responsibility for providing the necessary treatment for the industrial wastes and additional loading from the new development even if it meant greater community cost to meet effluent limits imposed on the WWTP and imposed through penalties associated with ongoing violations of its NPDES Permit and Board enforcement Orders. It has had ample time and opportunities to effectively deal with the industrial users contributing and/or causing the violations, but the violations continue. Its proposed time schedule to upgrade its POTW is far too flexible and would result in ongoing violations for an additional five years, perhaps even longer. Such upgrades need not take more than a couple of years.

44. The Discharger has been in chronic violation of its NPDES permit since at least 1998. Its corrective actions have failed to bring the discharge of pollutants from its WWTP into consistent compliance. TSO No. 99-054 and CAO No. R7-2004-0079 attempted to correct the violations, but they did not.
45. The discharger's WWTP is purportedly designed to treat 5.9 mgd of wastewater, but is currently discharging approximately 3.8 mgd. Title 40 of the Code of Federal Regulations (40 CFR) require NPDES POTWs discharging 5.0 mgd or more to have an approved pretreatment program. The Discharger's pretreatment program has not been subject to the approval of the State or USEPA. On many occasions, the discharger has experienced industrial discharges in violation of its pretreatment Ordinance. While treatment capacity alone can trigger implementation of a pretreatment program approved by the State and USEPA, there are additional noncompliance issues that warrant requirement of such a program. Consequently, this Order contains requirements for the implementation of an effective pretreatment program pursuant to Section 307 of the Federal Clean Water Act; Parts 35 and 403 of Title 40, Code of Federal Regulations (40 CFR 35 and 40 CFR 403); and Section 2233, Title 23, California Code of Regulations.
46. Since 2000 the Regional Board has taken formal enforcement action against the Discharger by issuing five ACLCs for MMPs totaling \$111,000, a TSO, and a CAO in an effort to ensure the Discharger brings its discharges of wastes into compliance at the earliest practicable time. These measures too have been ineffective in persuading the Discharger to attain consistent compliance with Board Order No. R7-2005-0021.
47. Based on the foregoing, and consistent with the California Water Code (CWC), the Board must be ready to exercise its full regulatory power to protect its waters and delegated authority to implement the NPDES Program.
48. Section 13301 of the 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.”
49. 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.”

50. Compliance with this Order exempts the Discharger from mandatory penalties for violations of effluent limitations, in accordance with CWC section 13385(j)(3). CWC section 13385(j)(3) requires the Discharger to prepare and implement a pollution prevention plan pursuant to section 13263.3 of the California Water Code. Therefore, a pollution prevention plan will be necessary for nitrate in order to effectively reduce the effluent concentrations by source control measures.

51. 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...”

52. 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.

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 cease and desist from discharging wastes in violation and threatened violation of Order No. R7-2005-0021 and implement corrective actions in accordance with the tasks and time schedules specified below

1. **Pollution Prevention Plan**—Pursuant to CWC Section 13263.3, the Discharger shall prepare and submit for approval of the Executive Officer a Pollution Prevention Plan by **November 1, 2008**. For the purposes of this Order, the Discharger may demonstrate compliance with the Task by achieving full compliance with Items 2 and 3, below.
2. **WWTP Improvements/Upgrades**—The Discharger shall complete the proposed WWTP upgrades to achieve consistent compliance with Order No. R7-2005-0021 and shall submit the required design plans and specifications and long-term revenue plan for operation and maintenance of proposed upgrades, and documentation to the Regional Board by the designated completion dates:

<u>WWTP Upgrades</u>			
<u>Milestone</u>	<u>Milestone Description</u>	<u>Milestone Submittal</u>	<u>Completion Date</u>
1.A	Complete Preliminary Design	Submit a Copy of the Design Plans and specification	November 15, 2008
1.B	Complete Design of the Wastewater Treatment Plant Upgrades	Submit a Copy of Final Design Drawings and Specification	December 15, 2008

City of Brawley
 Brawley Wastewater Treatment Plant
 Cease and Desist Order No. R7-2008-0008

1.C	Complete Construction of the Wastewater Treatment Plant Upgrades	Submit Summary and Verification of Construction Completion	December 31, 2010
1.D	Complete Operational Startup of New Wastewater Treatment Plant Upgrades	Submit Plan consisting of Operation and Maintenance Program for Wastewater Treatment Plant Upgrades	December 31, 2010
1.E	Achieve full compliance with Order No. R7-2005-0021 (NPDES Permit No. CA0104523)	Submit written certification that WWTP is in compliance with Order No. R7-2005-0021 (NPDES Permit No. CA0104523)	December 31, 2010

3. **Pretreatment Program**—Consistent with Provision No. VI.C.6.b. of Order No. R7-2005-0021; Section 2233, Title 23, California Code of Regulations; 40 CFR Parts 35 and 403 pretreatment requirements; and pretreatment standards under Section 307 of the Clean Water Act, the Discharger shall prepare and submit a Pretreatment Program for approval. The Pretreatment Program shall address, but need not be limited to, compliance with all prescriptive requirements under 40 CFR, including proposed:

- a. Organization and, as necessary, Multi-jurisdictional Implementation of pretreatment requirements;
- b. Implementation of the necessary legal authorities as provided in 40 CFR 403.8(f)(1);
- c. Revision and, as necessary development of local limits for industrial users;
- d. Identification of non-domestic users;
- e. Permitting procedures for categorical industrial users (CIUs);
- f. Pretreatment compliance monitoring;
- g. Pretreatment enforcement response plan;
- h. Resources to implement pretreatment program;
- i. Public participation and confidentiality (40 CFR 403.8(f) et seq.);
- j. Plan to prevent discharge of the following wastes into its collection and WWTP systems:
 - i. Wastes which create a fire or explosion hazard in the treatment works;
 - ii. Wastes which will cause corrosive structural damage to treatment works, but, in no case, wastes with a pH lower than 5.0 unless the works are designed to accommodate such wastes;
 - iii. Wastes at a flow rate and/or pollutant discharge rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency;
 - iv. Solid or viscous wastes in amounts which would cause obstruction to the flow in sewers or otherwise interfere with the proper operation of the treatment works.

The Pretreatment Program shall be developed and implemented in accordance with the following schedule:

Task	Milestone Description	Milestone Submittal	Completion Date
2.A	Develop proposed Pretreatment Program	Submit proposed Pretreatment Program	December 15, 2008
2.B	Complete Long-term revenue plan	Submit copy of revenue plan ¹ .	December 15, 2008
2.C	Develop and adopt local limits and revised Pretreatment Ordinance	Submit written certification that it has begun implementing Pretreatment Program	February 15, 2009
2.D	Issue all pending CIU permits	Submit written certification of issuance of CIU permits	May 15, 2009
2.E	Achieve Full compliance with approved Pretreatment Program	Submit written certification of issuance of CIU permits for full compliance	June 15, 2009

¹ The revenue plan shall include the proposed fee schedules for residential, commercial, and industrial users serviced by the WWTP and ensure each of these sources pays the necessary fee based on the loading and capacity each exerts on the WWTP and the proposed upgraded WWTP.

4. **Certified Chief WWTP Operator**—The Discharger shall obtain a properly certified Chief Operator for the proposed WWTP in accordance with Sections 3670-3719.19, Chapter 26, Title 23, of the California Code of Regulations for the proposed upgraded WWTP by March 1, 2010, and shall submit written certification of compliance with this task by March 15, 2010.
5. **Exemption** – Pursuant to CWC Section 13385(j), the Discharger will be exempt from Mandatory Minimum Penalties (MMP) for violations of the new effluent limitation for Total Ammonia as Nitrogen if the Discharger is in compliance with Cease and Desist Order No. R7-2008-0008.
6. The Discharger shall submit quarterly progress reports, due by the 15th of January, April, July, and October of each year, on the status of the project and the tasks listed above.
7. 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 13350 and 13385 of the CWC.
8. 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 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 a statement of qualifications of the responsible licensed professional(s) as well as the professional's signature and/or stamp of the seal.

City of Brawley
Brawley Wastewater Treatment Plant
Cease and Desist Order No. R7-2008-0008

9. 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 March 19, 2008.



ROBERT PERDUE
Executive Officer

City of Brawley
 Brawley Wastewater Treatment Plant
 Cease and Desist Order No. R7-2008-0008

ATTACHMENT "A"

Summary of Violations of Board Order No. R7-2005-0021 Mandatory Minimum Penalties

Assessed Violation¹ No.	Description of Violation	Date Occurred	Serious Violation²	Minimum Liability Assessed Dollars (\$)
298495	Exceeded interim average monthly of 62 µg/L zinc. Reported value was 70 µg/L	8/31/2005	No	0
365867	Exceeded interim average daily of 76 µg/L free cyanide. Reported value was 104 µg/L	11/2/2005	Yes	3,000
365868	Exceeded interim average monthly of 76 µg/L free cyanide. Reported value was 104 µg/L	11/30/2005	Yes	3,000
408933	Exceeded interim average daily of 95 µg/L zinc. Reported value was 262 µg/L	2/1/2006	Yes	3,000
408935	Exceeded interim average monthly of 62 µg/L zinc. Reported value was 262 µg/L	2/28/2006	Yes	3,000
420572	Exceeded daily maximum of 400 MPN/100 mL E. Coli. Reported value was 2,200 MPN/100 mL	5/22/2006	No	3,000
420573	Exceeded daily maximum of 400 MPN/100 mL E. Coli. Reported value was 500 MPN/100 mL	5/23/2006	No	3,000
420574	Exceeded monthly maximum of 126 MPN/100 mL E. Coli. Reported value was 217 MPN/100 mL	5/31/2006	No	3,000
463170	Exceeded daily maximum of 400 MPN/100 mL E. Coli. Reported value was 2,400 MPN/100 mL	11/14/2006	No	3,000
463171	Exceeded daily maximum of 400 MPN/100 mL E. Coli. Reported value was 500 MPN/100 mL	11/20/2006	No	3,000
463172	Exceeded daily maximum of 400 MPN/100 mL E. Coli. Reported value was 500 MPN/100 mL	11/28/2006	No	3,000
463173	Exceeded monthly maximum of 126 MPN/100 mL E. Coli. Reported value was 362 MPN/100 mL	11/30/2006	No	3,000
490699	Exceeded daily maximum of 400 MPN/100 mL E. Coli. Reported value was 2200 MPN/100 mL	12/4/2006	No	3,000
586122	Exceeded Maximum Daily of 590 lbs/day of Total Ammonia as Nitrogen. Reported value was 1808 lbs/day	2/7/2007	Yes	3,000
586118	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 54.32 mg/L	2/7/2007	Yes	3,000
586119	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 55.44 mg/L	2/14/2007	Yes	3,000
586124	Exceeded Maximum Daily of 590 lbs/day of Total Ammonia as Nitrogen. Reported value was 1,934 lbs/day	2/21/2007	Yes	3,000

¹ Data Source: California Integrated Water Quality System (CIWQS)

² Defined by CWC 13385(h)

City of Brawley
 Brawley Wastewater Treatment Plant
 Cease and Desist Order No. R7-2008-0008

Assessed Violation¹ No.	Description of Violation	Date Occurred	Serious Violation²	Minimum Liability Assessed Dollars (\$)
586120	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 57.12 mg/L	2/21/2007	Yes	3,000
586121	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 36.40 mg/L	2/28/2007	Yes	3,000
586125	Exceeded Maximum Daily of 590 lbs/day of Total Ammonia as Nitrogen. Reported value was 1,205 lbs/day	2/28/2007	Yes	3,000
586126	Exceeded Average Monthly of 1.1 mg/L of Total Ammonia as Nitrogen. Reported value was 40.82 mg/L	2/28/2007	Yes	3,000
586127	Exceeded Average Monthly of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 1,681 lbs/day	2/28/2007	Yes	3,000
586107	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 14.56 mg/L	3/7/2007	No	3,000
586110	Exceeded Maximum Daily of 590 lbs/day of Total Ammonia as Nitrogen. Reported value was 753 lbs/day	3/14/2007	No	3,000
586111	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 29.12 mg/L	3/21/2007	Yes	3,000
586112	Exceeded Maximum Daily of 590 lbs/day of Total Ammonia as Nitrogen. Reported value was 959 lbs/day	3/21/2007	Yes	3,000
586113	Exceeded Average Monthly of 1.1 mg/L of Total Ammonia as Nitrogen. Reported value was 18.62 mg/L	3/31/2007	Yes	3,000
586116	Exceeded Average Monthly of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 619 lbs/day	3/31/2007	Yes	3,000
586128	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 25.76 mg/L	4/4/2007	Yes	3,000
586132	Exceeded Maximum Daily of 590 lbs/day of Total Ammonia as Nitrogen. Reported value was 743 lbs/day	4/4/2007	No	3,000
586129	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 29.68 mg/L	4/11/2007	Yes	3,000
586130	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 29.12 mg/L	4/25/2007	Yes	3,000
586134	Exceeded Maximum Daily of 590 lbs/day of Total Ammonia as Nitrogen. Reported value was 913 lbs/day	4/25/2007	Yes	3,000
586131	Exceeded Average Monthly of 1.1 mg/L of Total Ammonia as Nitrogen. Reported value was 22.26 mg/L	4/30/2007	Yes	3,000
586135	Exceeded Average Monthly of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 696 lbs/day	4/30/2007	Yes	3,000

City of Brawley
 Brawley Wastewater Treatment Plant
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Assessed Violation ¹ No.	Description of Violation	Date Occurred	Serious Violation ²	Minimum Liability Assessed Dollars (\$)
580038	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 31.46 mg/L	5/2/2007	Yes	3,000
580040	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 965 lbs/day	5/2/2007	Yes	3,000
580041	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 30.8 mg/L	5/9/2007	Yes	3,000
580043	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 31.92 mg/L	5/16/1007	Yes	3,000
580044	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 958 lbs/day	5/16/2007	Yes	3,000
580045	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 31.92 mg/L	5/23/2007	Yes	3,000
580046	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 937 lbs/day	5/23/2007	Yes	3,000
580047	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 33.04 mg/L	5/30/2007	Yes	3,000
580048	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 975 lbs/day	5/30/2007	Yes	3,000
580049	Exceeded Average Monthly of 1.1 mg/L of Total Ammonia as Nitrogen. Reported value was 31.81 mg/L	5/31/2007	Yes	3,000
632742	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 30.8 mg/L	6/6/2007	Yes	3,000
632742	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 30.8 mg/L	6/6/2007	Yes	3,000
632747	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 33.6 mg/L	6/13/2007	Yes	3,000
632749	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 38.08 mg/L	6/20/2007	Yes	3,000
632750	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 1,181 lbs/day	6/20/2007	Yes	3,000
632751	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 31.92 mg/L	6/27/2007	Yes	3,000
632752	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 961 lbs/day	6/27/2007	Yes	3,000
632753	Exceeded Average Monthly of 1.1 mg/L of Total Ammonia as Nitrogen. Reported value was 33.60 mg/L	6/30/2007	Yes	3,000

City of Brawley
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Assessed Violation¹ No.	Description of Violation	Date Occurred	Serious Violation²	Minimum Liability Assessed Dollars (\$)
632755	Exceeded Average Monthly of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 1,038 lbs/day	6/30/2007	Yes	3,000
699786	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 1,021 lbs/day	7/3/2007	Yes	3,000
699783	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 32.48 mg/L	7/3/2007	Yes	3,000
699790	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 1,008 lbs/day	7/11/2007	Yes	3,000
699788	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 32.48 mg/L	7/11/2007	Yes	3,000
699792	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 33.60 mg/L	7/18/2007	Yes	3,000
699793	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 1,009 lbs/day	7/18/2007	Yes	3,000
699796	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 28.56 mg/L	7/25/2007	Yes	3,000
699795	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 874 lbs/day	7/25/2007	Yes	3,000
699798	Exceeded Average Monthly of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 978 lbs/day	7/31/2007	Yes	3,000
699799	Exceeded Average Monthly of 1.1 mg/L of Total Ammonia as Nitrogen. Reported value was 31.78 mg/L	7/31/2007	Yes	3,000
699463	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 33.04 mg/L	8/1/2007	Yes	3,000
699467	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 1,031 lbs/day	8/1/2007	Yes	3,000
699469	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 30.80 mg/L	8/8/2007	Yes	3,000
699472	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 871 lbs/day	8/8/2007	Yes	3,000
699483	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 986 lbs/day	8/15/2007	Yes	3,000
699482	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 32.48 mg/L	8/15/2007	Yes	3,000
699485	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 27.44 mg/L	8/22/2007	Yes	3,000

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Assessed Violation ¹ No.	Description of Violation	Date Occurred	Serious Violation ²	Minimum Liability Assessed Dollars (\$)
699486	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 822 lbs/day	8/22/2007	Yes	3,000
699488	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 1,050 lbs/day	8/29/2007	Yes	3,000
699487	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 33.04 mg/L	8/29/2007	Yes	3,000
699492	Exceeded Average Monthly of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 952 lbs/day	8/31/2007	Yes	3,000
699491	Exceeded Average Monthly of 1.1 mg/L of Total Ammonia as Nitrogen. Reported value was 31.36 mg/L	8/31/2007	Yes	3,000
721103	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 794 lbs/day	9/5/2007	Yes	3,000
721099	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 27.44 mg/L	9/5/2007	Yes	3,000
721105	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 24.64 mg/L	9/12/2007	Yes	3,000
721106	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 797 lbs/day	9/12/2007	No	3,000
720119	Exceeded daily maximum limit of 400 MPN/100 mL for E. coli Reported = 1,600 MPN/100 mL	9/17/2007	No	3,000
721109	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 980 lbs/day	9/19/2007	Yes	3,000
721107	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 32.48 mg/L	9/19/2007	Yes	3,000
720121	Exceeded daily maximum limit of 400 MPN/100 mL for E. coli Reported = 900 MPN/100 mL	9/25/2007	No	3,000
720122	Exceeded 30-day geometric mean limit of 125 MPN/100 mL of E. coli Reported =229 MPN/100 mL	9/30/2007	No	3,000
721113	Exceeded Average Monthly of 1.1 mg/L of Total Ammonia as Nitrogen. Reported value was 28 mg/L	9/30/2007	Yes	3,000
721115	Exceeded Average Monthly of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 630 lbs/day	9/30/2007	Yes	3,000
720109	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 592 lbs/day	10/3/2007	No	3,000
720019	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 20.16 mg/L	10/3/2007	Yes	3,000

City of Brawley
 Brawley Wastewater Treatment Plant
 Cease and Desist Order No. R7-2008-0008

Assessed Violation¹ No.	Description of Violation	Date Occurred	Serious Violation²	Minimum Liability Assessed Dollars (\$)
720110	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 28 mg/L	10/10/2007	Yes	3,000
720111	Exceeded Maximum Daily of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 592 lbs/day	10/10/2007	Yes	3,000
720112	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 16.24 mg/L	10/17/2007	No	3,000
720114	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 17.92 mg/L	10/24/2007	Yes	3,000
720116	Exceeded Maximum Daily of 12 mg/L of Total Ammonia as Nitrogen. Reported value was 32.48 mg/L	10/31/2007	No	3,000
720115	Exceeded daily maximum limit of 400 MPN/100 mL for E. coli Reported = 900 MPN/100 mL	10/31/2007	Yes	3,000
720117	Exceeded Average Monthly of 1.1 mg/L of Total Ammonia as Nitrogen. Reported value was 20.27 mg/L	10/31/2007	Yes	3,000
720118	Exceeded Average Monthly of 54 lbs/day of Total Ammonia as Nitrogen. Reported value was 630 lbs/day	10/31/2007	Yes	3,000

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

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**SPECIAL BOARD ORDER NO. R7-2008-0069
AMENDING CEASE AND DESIST ORDER NO. R7-2008-0008
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
PERMIT NO. CA0104523 FOR THE
CITY OF BRAWLEY WASTEWATER TREATMENT PLANT
IMPERIAL COUNTY**

The California Regional Water Quality Control Board, Colorado River Basin Region (hereinafter Regional Water Board), finds:

1. The City of Brawley (hereinafter Discharger) owns and operates a wastewater collection, treatment and disposal system (hereinafter referred to as WWTP or facility) and provides sewerage service to the City of Brawley. The WWTP has a treatment capacity of 5.9 million gallons per day (MGD) and is located in the SW1/4 of Section 15, T13S, R14E, SBB&M.
2. On June 29, 2005, the Regional Water Board adopted Board Order No. R7-2005-0021, NPDES Permit No. CA0104523, prescribing Waste Discharge Requirements for the Discharger's WWTP for the discharge of 5.9 million gallons per day (MGD) of effluent equivalent to secondary treated wastewater to the New River, a water of the United States. The New River conveys the effluent to the Salton Sea. Board Order No. R7-2005-0021 will expire on June 29, 2010.
3. Among other requirements, Board Order No. R7-2005-0021, Section IV.A.1.a prescribes Final Effluent Limitations for Discharge Point 001 for Total Ammonia as Nitrogen, which became effective on February 1, 2007. Although an Ammonia Removal Enhancement Project, which was implemented to upgrade the existing WWTP to meet this new effluent limitation, was timely completed, the new WWTP design was ineffective in meeting this limitation. The Discharger has since contracted with another engineering consultant to design and construct additional improvements to the WWTP to bring the ammonia discharges into compliance with Board Orders.
4. On March 19, 2008, the Regional Water Board adopted Cease and Desist Order (CDO) No. R7-2008-0008 (Attachment A) to address violations of Board Order No. R7-2005-0021. Pursuant to California Water Code (CWC) Section 13385(j)(3), paragraph 5 of the CDO exempts the Discharger from Mandatory Minimum Penalties (MMPs) for violations of the new effluent limitation for Total Ammonia as Nitrogen if the Discharger is in compliance with the CDO. Accordingly, the exemption from MMPs for violations of the Final Effluent Limitation for Total Ammonia as Nitrogen became effective on the date the CDO was adopted. The exemption remains in effect until December 31, 2010, the date when the WWTP improvements must be completed and full compliance with Board Order No. R7-2005-0021 must be achieved, as specified in Paragraph 2 of the CDO.

5. CWC Section 13385(j)(3)(C) specifies the additional MMPs exemption requirement that a regional board must establish 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. Moreover, the time schedule, with one exception not applicable here, may not exceed five years in length. In addition, if the time schedule exceeds one year from the effective date of the order, the schedule must include interim requirements and the dates for their achievement. The interim requirements must include: (i) effluent limitations for the pollutant(s) of concern; and (ii) actions and milestones leading to compliance with the effluent limitations. Paragraph 2 of the CDO specifies the required actions and milestones, and a completion date of December 31, 2010, by which time the Discharger must achieve compliance with the ammonia effluent limitations. Because the completion date exceeds one year from the effective date of the CDO (March 19, 2008), it is also necessary to specify interim effluent limitations for Total Ammonia as Nitrogen. Accordingly, this Special Board Order revises CDO No. R7-2008-0008 to add interim effluent limits for Total Ammonia as Nitrogen.
6. The interim effluent limits specified in this Special Board Order for Total Ammonia as Nitrogen are established at a level to ensure timely compliance by December 31, 2010, with the final effluent limitation.
7. CDO No. R7-2008-0008 may be modified, rescinded and reissued, for cause. The filing of a request by the Discharger for a Board Order modification, rescission and reissuance, or a notification of planned changes or anticipated noncompliance does not stay any Board Order condition. Causes for modification include, but are not limited to, the promulgation of new regulations, modification of land application plans, or modification in sludge use or disposal practices, or adoption of new regulations by the State Water Board or the Regional Water Board, including revisions to the Basin Plan.
8. Pursuant to 40 CFR 124.10(b), a thirty (30) day public notice and comment period of this Special Board Order is required prior to its becoming final. These public participation requirements are necessary to provide stakeholders potentially affected by this action with an opportunity to object to or comment on this Special Board Order.
9. Pursuant to 40 CFR 124.10(b) and CWC Section 13167.5, the Regional Water Board published Public Notice No. 7-08-43 for this Special Board Order on October 17, 2008.
10. Issuance of this Special Board Order amending CDO No. R7-2008-0008 to enforce CWC, Division 7, Chapter 5.5 is exempt from the provisions of CEQA (Pub. Resources Code, § 21000 et seq.), in accordance with Section 15321 ("Enforcement Actions by Regulatory Agencies") Title 14, California Code of Regulations. In addition, issuance of this Special Board Order imposing an interim effluent limitation for a Discharger regulated by an NPDES permit is also exempt from the provisions of CEQA pursuant to California Water Code section 13389 and Section 15061(b)(3) (no possibility of a significant effect on the environment) of Title 14, California Code of Regulations.

IT IS HEREBY ORDERED, that Cease and Desist Order No. R7-2008-0008 is amended in the manner specified below upon the effective date of this Special Board Order, and, in order to meet the provisions contained in Division 7 of the California Water Code (CWC) and regulations adopted thereunder, and the provisions of the federal Clean Water Act (CWA), and regulations and guidelines adopted thereunder, the Discharger shall comply with the requirements in this Special Board Order as well as with those portions of CDO No. R7-2008-0008 that were not amended by this Special Board Order:

1. Page 12, Add Paragraph 4.1 **Interim Effluent Limitations** as follows:

Wastewater discharged to the New River shall not exceed the interim effluent limitations for Total Ammonia as Nitrogen specified in the table below. The interim effluent limitations are based on plant performance data, reference data from representative wastewater treatment facilities, and Best Professional Judgment (BPJ).

Constituents	Units	Interim Effluent Limitations	
		Average Monthly	Maximum Daily
Total Ammonia as Nitrogen	mg/L	120	120
	lbs/day ¹	5900	5900

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

ROBERT E. PERDUE, Executive Officer

¹ Based on a flow of 5.9 MGD

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

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**SPECIAL BOARD ORDER NO. R7-2010-0003
AMENDING CEASE AND DESIST ORDER NO. R7-2008-0008
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
PERMIT NO. CA0104523
FOR
THE CITY OF BRAWLEY WASTEWATER TREATMENT PLANT
City of Brawley — Imperial County**

The California Regional Water Quality Control Board, Colorado River Basin Region (hereinafter Regional Water Board), finds:

1. The City of Brawley (hereinafter Discharger) owns and operates a wastewater collection, treatment and disposal system (hereinafter referred to as WWTP or facility) and provides sewerage service to the City of Brawley. The WWTP has a treatment capacity of 5.9 million gallons per day (MGD) and is located in the SW1/4 of Section 15, T13S, R14E, SBB&M.
2. On June 29, 2005, the Regional Water Board adopted Board Order No. R7-2005-0021, NPDES Permit No. CA0104523, prescribing Waste Discharge Requirements for the Discharger's WWTP for the discharge of 5.9 million gallons per day (MGD) of effluent equivalent to secondary treated wastewater to the New River, a water of the United States. The New River conveys the effluent to the Salton Sea. Board Order No. R7-2005-0021 will expire on June 29, 2010.
3. Among other requirements, Board Order No. R7-2005-0021, Section IV.A.1.a prescribes Final Effluent Limitations for Discharge Point 001 for Total Ammonia as Nitrogen, which became effective on February 1, 2007. Although an Ammonia Removal Enhancement Project, which was implemented to upgrade the existing WWTP to meet this new effluent limitation, was timely completed, the new WWTP design was ineffective in meeting this limitation. The Discharger has since contracted with another engineering consultant to design and construct additional improvements to the WWTP to bring the ammonia discharges into compliance with Board Orders.
4. On March 19, 2008, the Regional Water Board adopted Cease and Desist Order (CDO) No. R7-2008-0008 to address violations of Board Order No. R7-2005-0021. Pursuant to California Water Code (CWC) Section 13385(j)(3), paragraph 5 of the CDO exempts the Discharger from Mandatory Minimum Penalties (MMPs) for violations of the new effluent limitation for Total Ammonia as Nitrogen if the Discharger is in compliance with the CDO. Accordingly, the exemption from MMPs for violations of the Final Effluent Limitation for Total Ammonia as Nitrogen became effective on the date the CDO was adopted. The exemption remains in effect until December 31, 2010, the date when the WWTP improvements must be completed and full compliance with Board Order No. R7-2005-0021 must be achieved, as specified in Paragraph 2 of the CDO.

Special Board Order No. R7-2010-0003
Amending Cease and Desist Order No. R7-2008-0008
City Of Brawley Wastewater Treatment Plant

5. CDO No. R7-2008-0008 may be modified, rescinded and reissued, for cause. The filing of a request by the Discharger for a Board Order modification, rescission and reissuance, or a notification of planned changes or anticipated noncompliance does not stay any Board Order condition. Causes for modification include, but are not limited to, the promulgation of new regulations, modification of land application plans, or modification in sludge use or disposal practices, or adoption of new regulations by the State Water Board or the Regional Water Board, including revisions to the Basin Plan.
6. On November 19, 2008, the Board adopted Special Board Order No. R7-2008-0069. This Special Board Order revised CDO No. R7-2008-0008 to add interim effluent limits for Total Ammonia as Nitrogen.
7. On November 18, 2009, the Discharger in a letter to the Assistant Executive Officer (AEO) requested that the schedule for the completion date to be extended until June 30, 2012. The primary reason for the delay has been in securing affordable financing for the project through the State Revolving Fund (SRF) Office and the federal American Recovery and Reinvestment Act (ARRA) funding for shovel-ready projects. This required a new wastewater rate study, conducting public participation, notification under Proposition 218, and taking action for adoption of the new rates by the Brawley City Council. Accordingly, this Special Board Order revises CDO No. R7-2008-0008 to extend the milestone deadlines specified on pages 10-11, Ordered Paragraph No. 2 for Milestones 1.C, 1.D, and 1.E, as specified below in this Special Board Order. These milestones pertain to completion of construction and operational start-up of the new wastewater treatment plant upgrades and to achieving full compliance with Board Order No. R7-2005-0021. Water Code Section 13385(j)(3)(C) provides that a time schedule specified in a CDO may not exceed five (5) years in length for bringing a waste discharge into compliance with an effluent limitation. Since Board Order No. R7-2008-0008 was adopted on March 19, 2008, the latest revised milestone specified below of June 30, 2012, complies with this statutory requirement.
8. Pursuant to 40 CFR 124.10(b), a thirty (30) day public notice and comment period of this Special Board Order is required prior to its becoming final. These public participation requirements are necessary to provide stakeholders potentially affected by this action with an opportunity to object to or comment on this Special Board Order.
9. Pursuant to 40 CFR 124.10(b) and CWC Section 13167.5, the Regional Water Board published Public Notice No. 7-10-02 for this Special Board Order on December 24, 2009.
10. Issuance of this Special Board Order amending CDO No. R7-2008-0008 to enforce CWC, Division 7, Chapter 5.5 is exempt from the provisions of CEQA (Pub. Resources Code, § 21000 et seq.), in accordance with Section 15321 ("Enforcement Actions by Regulatory Agencies") Title 14, California Code of Regulations. In addition, issuance of this Special Board Order, which modifies the Discharger's existing NPDES permit, is also exempt from the provisions of CEQA pursuant to California Water Code section 13389 and California Code of Regulations, Title 14, Section 15061(b)(3) (no possibility of a significant effect on the environment).

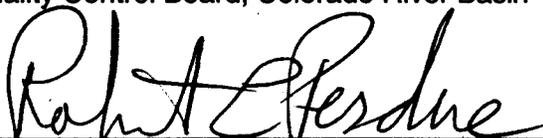
IT IS HEREBY ORDERED, that Cease and Desist Order No. R7-2008-0008 is amended in the manner specified below upon the effective date of this Special Board Order, and, in order to meet the provisions contained in Division 7 of the California Water Code (CWC) and regulations adopted thereunder, and the provisions of the federal Clean Water Act (CWA), and regulations and guidelines adopted thereunder, the Discharger shall comply with the requirements in this Special Board Order as well as with those portions of CDO No. R7-2008-0008 that were not amended by this Special Board Order:

Page 10, Ordered Paragraph No. 2: WWTP Improvements/Upgrades. **Modify Completion dates of Milestones 1C, 1D, and 1E** as follows:

WWTP Improvements/Upgrades — The Discharger shall complete the proposed WWTP improvements and upgrades to achieve consistent compliance with Board Order No. R7-2005-0021 and shall submit the required design plans and specifications and long-term revenue plan for operation and maintenance of proposed upgrades, and documentation to the Regional Board, by the designated completion dates specified below:

WWTP UPGRADES			
MILESTONE	MILESTONE DESCRIPTION	MILESTONE SUBMITTAL	COMPLETION DATE
1.A	Complete Preliminary Design	Submit a Copy of the Design Plans and specification	November 15, 2008
1.B	Complete Design of the Wastewater Treatment Plant Upgrades	Submit a Copy of Final Design Drawings and Specification	December 15, 2008
1.C	Complete Construction of the Wastewater Treatment Plant Upgrades	This needs to be a certification statement Submit Summary and Verification of Construction Completion	December 31, 2011
1.D	Complete Operational Startup of New Wastewater Treatment Plant Upgrades	Submit Plan consisting of Operation and Maintenance Program for Wastewater Treatment Plant Upgrades	June 30, 2012
1.E	Achieve full compliance with Order No. R7-2005-0021 (NPDES Permit No. CA0104523)	Submit written certification that WWTP is in compliance with Order No. R7-2005-0021 (NPDES Permit No. CA0104523)	June 30, 2012

I, Robert E. Perdue, Executive Officer, do hereby certify the following is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on January 21, 2010.


 ROBERT E. PERDUE, Executive Officer