

Lahontan Regional Water Quality Control Board

February 27, 2014

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**INVESTIGATIVE ORDER NO. R6V-2014-0017 FOR USMC LOGISTICS
BASE, YERMO DOMESTIC WASTEWATER TREATMENT FACILITY,
BARSTOW, SAN BERNARDINO COUNTY, WDID NO. 6B360702003**

Lahontan Regional Water Quality Control Board (Water Board) staff has received and reviewed the USMC's "*Technical Memorandum N62583-11-D-0515, Nitrate and Phenol Investigation of Domestic Wastewater Treatment Facility and Groundwater Assessment*" (Investigation Plan) dated September 2013, prepared by Battelle. The purpose of the investigation is to evaluate the operating conditions of the facility, determine steps necessary to reduce overall nitrogen concentrations in the effluent, determine the source(s) of phenols in the facility influent and effluent, and to assess the impact of nitrate as nitrogen and other constituents in groundwater. The investigation is required in order to determine steps necessary to return the facility to compliance with its waste discharge requirements.

Water Board staff generally concurs with the scope of work proposed, with the following comments:

- 1) Bis(2-ethylhexyl)phthalate and total phenols have been detected in samples collected from the groundwater monitoring wells at the facility. Therefore, in addition to analysis of total phenols by 420.4, please include analyses by EPA Method 8270 for, at a minimum, individual phenolic compounds and bis(2-ethylhexyl)phthalate (full-scan 8270 is preferable), in samples of facility influent and effluent, as well as manholes and all groundwater monitoring wells (YDMW-1, YDMW-3, YDMW-5, and Y9-4&5).
- 2) Table 2 and Figure 4 only list/depict YDMW-1 through 6. In the final report, please include the well information and location for the additional recommended down-gradient sampling wells (Y9-4&5).

- 3) Please include in the final report a figure depicting the locations of all potential receptors (e.g., water supply wells, surface waters) within one mile of the facility.
- 4) Please include in the final report an estimate of the expected total nitrogen (including nitrite, nitrate and total kjeldahl nitrogen) concentration in effluent after facility improvements/operational changes have been implemented, and the expected time frame for returning the facility to consistent compliance with the receiving water limitation for nitrate as nitrogen.

The report of investigation must be submitted no later than **October 1, 2014**.

Nothing in this Order relieves the USMC of its responsibility to comply with previous Orders, or to comply with laws and regulations that are applicable to activities necessary to produce the above-referenced report.

Justification

Water Code section 13267, subdivision (b) states, in part,

"...the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region ... shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires... In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports and shall identify the evidence that supports requiring that person to provide the reports."

On June 13, 2001, the Water Board adopted Board Order No. 6-01-42, prescribing Waste Discharge Requirements (WDRs) for the Facility's treated wastewater discharge. Board Order No. 6-01-42 identifies the USMC as the Discharger and, in part, establishes effluent limitations for phenols and other constituents, and groundwater receiving water limitations for nitrate as nitrogen, phenols and other constituents. Board Order No. 6-01-42 also includes Monitoring and Reporting Program No. 01-42. The monitoring program prescribes effluent and groundwater sampling, analysis, and reporting requirements for the Facility. Analytical results provided in quarterly self-monitoring reports show that the facility's discharge has consistently violated the effluent limitation for total phenol. Additionally, the analytical results show that nitrate as nitrogen concentrations in groundwater samples from down-gradient monitoring wells YDMW-1 and YDMW-3 have exceeded the maximum contaminant level (MCL) for 14 out of the past 19 quarterly sampling events at YDMW-1 and for 12 out of the last 19 quarterly sampling events at YDMW-3.¹ Exceeding the effluent limitation for total phenol and receiving water limitations for nitrate as nitrogen and other constituents

¹ First quarter 2009 through third quarter 2013.

constitute violations of Board Order No. 6-01-42. This investigative order is necessary to identify the cause of the violations, to determine the extent of water quality impacts associated with the violations, and to evaluate the corrective actions and time necessary to return USMC and its facility to compliance with its waste discharge requirements.

Order for Technical Reports

Pursuant to Water Code section 13267, the USMC is hereby ordered to implement the Investigation Plan, and to submit a technical report of the investigation results no later than **October 1, 2014**. The investigation and technical report shall incorporate measures to address Comment Nos. 1 – 4, above.

Copies of all technical reports for the facility, including all quarterly and annual self-monitoring reports, must be submitted to each of the following:

William Muir, Engineering Geologist
Lahontan Regional Water Quality Control Board
14440 Civic Drive, Suite 200
Victorville, CA 92392

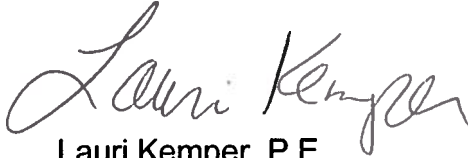
Lisa Scorable, Engineering Geologist
Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Blvd
South Lake Tahoe, CA 96150

This Order is being issued pursuant to Water Code section 13267. Enclosed with this Order is a Fact Sheet that contains information regarding the submission of technical reports. The burden to the USMC in performing the investigation and submitting the required technical report, including costs, is outweighed by the Water Board's need for the information in its efforts to re-establish compliance with Board Order No. 6-01-42, and to protect the water quality for the beneficial uses of the waters of the state.

Any person aggrieved by this action of the Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 et seq. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality
or will be provided upon request.

Please contact Water Board staff Lisa Scorallo at (530) 542-5452 or Scott Ferguson at (530) 542-5432 if you have any questions regarding this Investigative Order.



Lauri Kemper, P.E.
Assistant Executive Officer

Enclosure: Water Code Section 13267 Fact Sheet

cc: Patty Z. Kouyoumdjian, Executive Officer, LRWQCB
Laura Drabandt, Staff Counsel, SWRCB, Office of Enforcement
Heather Rectanus, Battelle
(via email RectanusH@battelle.org)
San Bernardino County, Division of Environmental Health Services

**Fact Sheet – Requirements for Submitting Technical Reports
Under Section 13267 of the California Water Code**

October 8, 2008

What does it mean when the regional water board requires a technical report?

Section 13267¹ of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged...waste that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires".

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

Providing the required information in a technical report is not an admission of guilt or responsibility. However, the information provided can be used by the regional water board to clarify whether a given party has responsibility.

Are there limits to what the regional water board can ask for?

Yes. The information required must relate to an actual or suspected discharge of waste, and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The regional water board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension can be given for good cause. Your request should be submitted in writing, giving reasons. A request for a time extension should be made as soon as it is apparent that additional time will be needed and preferably before the due date for the information.

Are there penalties if I don't comply?

Depending on the situation, the regional water board can impose a fine of up to \$1,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information is guilty of a misdemeanor and may be fined as well.

What if I disagree with the 13267 requirement and the regional water board staff will not change the requirement and/or date to comply?

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the date of the 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 or will be provided upon request.

Claim of Copyright or other Protection

Any and all reports and other documents submitted to the Regional Board pursuant to this request will need to be copied for some or all of the following reasons: 1) normal internal use of the document, including staff copies, record copies, copies for Board members and agenda packets, 2) any further proceedings of the Regional Board and the State Water Resources Control Board, 3) any court proceeding that may involve the document, and 4) any copies requested by members of the public pursuant to the Public Records Act or other legal proceeding.

If the discharger or its contractor claims any copyright or other protection, the submittal must include a notice, and the notice will accompany all documents copied for the reasons stated above. If copyright protection for a submitted document is claimed, failure to expressly grant permission for the copying stated above will render the document unusable for the Regional Board's purposes, and will result in the document being returned to the discharger as if the task had not been completed.

If I have more questions, who do I ask?

Requirements for technical reports normally indicate the name, telephone number, and email address of the regional water board staff person involved at the end of the letter.

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov. Copies of the regulations cited are available from the Regional Board upon request.

