

California Regional Water Quality Control Board
North Coast Region

CEASE AND DESIST ORDER NO. R1-2003-0046

REQUIRING THE CITY OF RIO DELL
TO CEASE AND DESIST FROM DISCHARGING AND THREATENING
TO DISCHARGE WASTE IN VIOLATION OF
WASTE DISCHARGE REQUIREMENTS ORDER NO. R1-2000-15
NPDES No. CA0022748
WDID No. 1B83134OHUM

Humboldt County

The Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. The City of Rio Dell (hereinafter Permittee) owns and operates waste treatment works that provide collection, sedimentation, biological treatment, disinfection, and dechlorination. During the winter months, treated effluent is discharged to the Eel River. During the summer period, treated effluent is discharged into two percolation ponds on a gravel bar adjacent to the river.
2. On February 24, 2000, the Regional Water Board adopted Order No. R1-2000-15, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0022748 for the City of Rio Dell Wastewater Treatment Facility (WWTF).
3. Pursuant to provisions of the Water Quality Control Plan for the North Coast Basin (Basin Plan), Order No. R1-2000-15 prohibits effluent discharge to the Eel River and its tributaries from May 15 through September 30 each year. During this period, effluent is discharged into two percolation ponds on a gravel bar adjacent to the river. The thin gravel bar is underlain by clayey soils, which has allowed effluent to surface on the gravel bar and discharge directly into the river. This chronic violation of Order No. R1-2000-15 and possible solutions have been the subject of discussions between the Regional Water Board and City staff for several years.
4. Order No. R1-2000-15 requires that solids removed from the treatment process be disposed in any of three designated land application sites (shown in Attachment A to the Order) or at a legal point of disposal in accordance with applicable provisions of Title 27, Division 3, California Code of Regulations. Instead of

using one of the designated sites, the Permittee used an unauthorized site in summer 2001 and the Redway Community Services District approved site in summer 2002. Only one disposal season remains on the Permittee's contract with Redway Community Services District, and the Permittee has not notified the Regional Water Board that a long-term solids disposal program is in place.

5. On February 21, 2003, the Regional Water Board issued a California Water Code Section 13267 Order to the Permittee requiring the submittal of technical reports. The Order requires that the Permittee submit a technical report to the Regional Water Board by April 15, 2003, describing a short-term plan for treated effluent disposal during the river discharge prohibition season. The Order also requires the Permittee to submit a technical report by September 30, 2003, describing a long-term plan for treated effluent disposal during the river discharge prohibition season and for a long-term biosolids disposal program.
6. The following terms in Order No. R1-2000-15 are being violated or threaten to be violated:

A. DISCHARGE PROHIBITIONS

2. Creation of a pollution, contamination, or nuisance, as defined in Section 13050 of the California Water Code (CWC) is prohibited. [Health and Safety Code, Section 5411]
3. The discharge of sludge or digester supernatant is prohibited, except as authorized under **D. SOLIDS DISPOSAL**.
5. The discharge of waste from the City of Rio Dell's Wastewater Treatment Plant to the Eel River or its tributaries during the period May 15 through September 30 each year is prohibited.

D. SOLIDS DISPOSAL

1. Collected screenings, sludges and other solids removed from liquid wastes that are not applied to the land applications sites shown in Attachment "A" shall be disposed of at a legal point of disposal, and in accordance with applicable provisions of Title 27, Division 3, California Code of Regulations.

E. PROVISIONS

18. **Change in Discharge**
In the event of a material change in the character, location, or volume of a discharge, (including any point or nonpoint discharge to land or groundwater) the permittee shall file with this Regional Water Board a new report of waste discharge at least 180 days before making any such change. [CWC Section 13376]. A material change includes, but is not limited to, the following:

- c. Significant change in the disposal area, e.g., moving the discharge to another drainage area, to a different water body, or to a disposal area, significantly removed from the original area, potentially causing different water quality or nuisance problems.
- d. Increase in area or depth to be used for solid waste disposal beyond that specified in the waste discharge requirements. [CCR Title 23 Section 2210]

7. Section 13301 of the Porter Cologne Water Quality Control Act states in part:

“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 such system by dischargers who did not discharge into the system prior to the issuance of cease and desist order.”

Title 23, California Code of Regulations, Section 2244(b) states:

“Prohibitions or appropriate restrictions on additional discharges should be included in a cease and desist order if the further addition in volume, type, or concentration of waste entering the sewer system would cause and increase in violation of waste discharge requirements or increase the likelihood of violation of requirements.”

The Rio Dell WWTF does not have adequate capacity, due to limited dry season effluent disposal capability and limited sludge storage area, to provide wastewater treatment as specified in Waste Discharge Requirements. Therefore, the Permittee is in violation of Waste Discharge Requirements, and additional flow of wastes will further hinder the Permittee’s ability to comply with Waste Discharge Requirements.

- 8. Pursuant to Water Code Section 13389 and Title 14, California Code of Regulations, Section 15321, this is an enforcement action for violations and threatened violations of waste discharge requirements and for the protection of the environment and as such is exempt from the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.).
- 9. On May 15, 2003, after due notice to the Permittee and all other affected persons, the Regional Water Board conducted a public hearing and received evidence regarding this Cease and Desist Order.

IT IS HEREBY ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTIONS 13243, 13300 AND 13301 THAT:

1. The Permittee shall cease and desist from discharging and threatening to discharge waste in violation of the terms of Order No. R1-2000-15 (NPDES Permit No. CA0022748) described in Finding No. 6 above by implementing the following time schedule:
 - Task A By May 15, 2003, complete implementation of the short-term plan¹ for treated effluent disposal for the upcoming river discharge prohibition season.
 - Task B By September 30, 2003, submit a technical report² including: (1) a description of the City's list of alternatives for long-term effluent disposal (2) the preliminary analysis of these alternatives (3) progress on obtaining a disposal site for solids removed from liquid wastes.
 - Task C On or before April 1 of each year, until compliance is obtained, submit a report describing the performance of the short-term effluent disposal method(s) during the previous dry period and any planned deviations from the initial short-term effluent disposal plan submitted to the Regional Water Board on April 14, 2003.
 - Task D By May 15, 2004, secure a long-term biosolids disposal site and obtain the necessary permits and/or approval for the site.
 - Task E By May 31, 2004, submit a detailed analysis of the long-term effluent disposal alternatives developed from Task B and the selected preferred alternative. The report shall detail progress regarding land acquisition, permitting, financing, and construction of the preferred alternative.
 - Task F By November 1, 2004, secure funding for the long-term effluent disposal project. Provide the Regional Water Board with documentation regarding the funding source(s).
 - Task G By March 1, 2005, submit documentation that the land necessary for the long-term effluent disposal project has been acquired or a long-term lease is secured.

¹ This plan is required by a 13267 Order to be submitted to the Regional Water Board no later than April 15, 2003.

² This report is required by a 13267 Order to be submitted to the Regional Water Board no later than September 30, 2003.

- Task H By August 1, 2005, complete the California Environmental Quality Act (CEQA) process and acquire all necessary permits, including Waste Discharge Requirements from the Regional Water Board.
- Task I By April 1, 2006, complete the design plans and specifications for construction of the effluent disposal project.
- Task J By May 1, 2007, complete construction of the effluent disposal project.
- Task K By May 15, 2007, attain full compliance with Waste Discharge Requirements by completing the implementation of long-term plans for treated effluent disposal during the river discharge prohibition seasons.

2. The addition of new flows of wastewater to the wastewater treatment facility (after May 15, 2003) from new residential, commercial, industrial, and/or governmental connections is restricted to 40 equivalent dwelling units (EDU),³ which equals 18,000 gallons per day, until such time that it can be demonstrated to the satisfaction of the Regional Water Board that more connections will not result in additional violations of terms of Order No. R1-2000-15 described in Finding No. 6 above. [Title 23, California Code of Regulations, Section 2244]

Structures with building permits (or substitute final construction approval documents) already issued at the time of the public notice of the cease and desist hearing May 15, 2003 are excluded from this prohibition. [Title 23, California Code of Regulations, Section 2244.1(a)]

Those structures that do not require a “building permit” or are exempted from the permitting process shall be exempted from this prohibition if construction has commenced. [Title 23, California Code of Regulations, Section 2244.1(a)]

The following are excluded from the prohibition:

- a. Discharges from existing dwellings not connected to the sewer system which have methods of waste disposal which are causing more severe water quality problems than those caused by the community sewer system. [Title 23, California Code of Regulations, Section 2244.1(b)(1)]
- b. Discharges which, by reason of special circumstances, if not allowed to connect to the community sewer system would result in extreme public hardship or a public health hazard. This is not intended to mean that economic loss to a community as a whole or to a public agency or private

³ One EDU represents a three-bedroom, single-family dwelling and equals 450 gallons per day.

person within the community is by itself cause for not prohibiting additional connections because such a loss is a rule rather than the exception and cannot outweigh the need to prevent an increase in water quality impairment which is the basic reason for the prohibition. [Title 23, California Code of Regulations, Section 2244.1(b)(2)]

3. The City of Rio Dell shall submit a report each year describing all connections added to the treatment facility. The report shall identify the type of each connection and its equivalent flow contribution (in EDUs) to the treatment facility as well as a running total of facilities connected and the flows remaining. The report shall be submitted with the annual discharge monitoring report.
4. If, in the opinion of the Executive Officer, the Permittee fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability.

Certification

I, Susan A. Warner, Executive Officer do
Hereby certify that the foregoing is a full,
true, and correct copy of an Order
Adopted by the California Regional
Water Quality Control Board, North
Coast Region, on May 15, 2003.

Susan A. Warner
Executive Officer