

California Regional Water Quality Control Board
North Coast Region

ORDER NO. R1-2003-0021
I.D. No. 1B83001OSON

(MODIFYING ORDER NO. R1-2001-48)

TIME SCHEDULE ORDER

FOR

ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF
OCCIDENTAL COUNTY SANITATION DISTRICT
AND THE SONOMA COUNTY WATER AGENCY

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), hereby gives notice that:

1. The Occidental County Sanitation District (hereinafter OCSD), owns a municipal wastewater treatment facility located east of the Town of Occidental. The wastewater treatment facility serves the community of Occidental. Treated effluent is disposed of by irrigation during the summer and by discharge to Dutch Bill Creek during the winter. The Sonoma County Water Agency (hereinafter SCWA), located at 2150 W. College Avenue, Santa Rosa, is under contract to operate and maintain the Occidental Wastewater Treatment Facility (WWTF). The OCSD and the SCWA are collectively hereinafter referred to as the Discharger.
2. The Regional Water Board adopted Waste Discharge Requirements Order No. 93-42 (WDR Order No. 93-42) for the WWTF on May 27, 1993. WDR Order No. 93-42 also serves as a NPDES Permit and allows the Discharger to discharge treated effluent at a rate of up to one percent of the flow of the receiving water during the period of October 1 through May 14 of each year and prohibits discharge to Dutch Bill Creek and its tributaries during the period of May 15 through September 30 of each year.
3. On August 27, 1997, the Regional Water Board held an evidentiary hearing and subsequently adopted 1) Cease and Desist Order No. 97-74 (CDO No. 97-74)

requiring the Discharger to cease and desist from threatening to discharge in violation of WDR Order No. 93-42 and 2) Time Schedule Order No. 97-75 (TSO No. 97-75) prescribing an administrative civil liability penalty schedule upon the Discharger's failure to comply with tasks therein pertaining to development and construction of a capital improvement project¹ to correct violations from the existing failing WWTF. The Regional Water Board found that the Discharger violated WDR Order No. 93-42 by: 1) discharging treated, disinfected effluent to waters of the state during the summer discharge prohibition period and 2) discharging treated effluent with pH and chlorine residual violations to waters of the state. The Regional Water Board also found that these violations occurred and may continue to occur due to a lack of adequate storage capacity and/or inadequate operation of treatment and storage facilities at the WWTF.

CDO No. 97-74 contained a time schedule of short- and long-term actions for the Discharger to complete in order to cease and desist from threatening to discharge waste in violation of WDR Order No. 93-42. The short-term actions were completed in a timely manner. Some of the long-term actions have been completed and others, such as completion of a capital improvement project, were extended in a subsequent cease and desist order (see Finding 7).

4. On October 23, 1997, the Regional Water Board adopted Administrative Civil Liability Order No. 97-126 (ACL Order No. 97-126) imposing administrative civil liability against the Discharger for violations of WDR Order No. 93-42 and prohibitions contained in the Water Quality Control Plan for the North Coast.
5. On January 25, 2001 and March 2, 2001, the SCWA submitted letters to the Regional Water Board Executive Officer describing the Discharger's plan for selecting and constructing a final wastewater treatment facility upgrade project and requesting an extension of time to complete Tasks H and I in CDO No. 97-74 pertaining to awarding a bid for and completing construction of the selected capital improvement project. The March 2, 2001 letter requested an extension of one year and nine months to award the bid for the selected project and stated that they could not commit to a date for completion of construction until a project is selected. The time extensions were requested to allow for consideration of a combined Occidental/Camp Meeker wastewater treatment system proposed by the Camp Meeker Parks and Recreation District as an additional upgrade alternative.
6. An EIR for the Occidental/Camp Meeker project was certified by the Camp Meeker Recreation and Parks District on March 12, 2002. The project was

¹ The term "capital improvement project" (all lower case letters) is used in this Order to refer to the capital improvement project before a specific WWTF upgrade project was selected. The terms "Capital Improvement Project" or "CIP" are used in this Order to refer to the selected WWTF project that is described in Finding 6 of this Order.

approved by the Camp Meeker Recreation and Parks District and the Board of Directors for the SCWA on March 12, 2002 and March 26, 2002, respectively.

The Discharger has identified the selected Capital Improvement Project (CIP) to be a combined Occidental/Camp Meeker wastewater collection, treatment, disposal, and reclamation upgrade project. This project, described in the March 12, 2002 Camp Meeker Final EIR, includes the following components: a collection system and lift station in Camp Meeker, a force main from Camp Meeker to Occidental, replacement of the existing collection system in Occidental, modification of the existing lift station in Occidental, upgrading the existing Occidental WWTF to tertiary treatment capabilities, a new 2-million gallon recycled water storage pond, abandonment of the use of Graham's Pond, constructed woodlands and wetland disposal, wet-weather surface water discharge to Dutch Bill Creek at an average rate of 2.2 percent of the flow of Dutch Bill Creek, and dry-weather irrigation on the same parcel currently being used for dry-weather irrigation.

7. On May 24, 2001, the Regional Board considered the Discharger's extension requests, and adopted (1) Cease and Desist Order No. R1-2001-47 that extended the remaining deadlines in CDO No. 97-74, subject to completion of an interim project to reduce the potential for on-going effluent limitation violations and a prohibition on additional discharges, and (2) Time Schedule Order No. R1-2001-48 prescribing an administrative civil liability penalty schedule upon the Discharger's failure to comply with tasks therein pertaining to development and construction of the selected CIP.
8. In a written progress report dated May 31, 2002, the SCWA stated that the OCSD and SCWA would not be able to meet two compliance dates in CDO No. R1-2001-47: the December 1, 2002, date for awarding a bid for the CIP and the December 1, 2003, date for completion of the CIP. The SCWA requested a one-year time extension to award a bid for the CIP and a 27-month time extension to complete construction of the CIP. The progress report stated that progress toward design and construction of the proposed facility is moving ahead slowly due to financial constraints and that the OCSD and the SCWA would continue to seek grants to fund the proposed project. The progress report stated that the extension would allow the Discharger and Camp Meeker to continue their efforts to obtain funding for the CIP but did not provide a definitive plan for obtaining the funding.
9. In June 2002, the Discharger completed the interim project required by CDO No. R1-2001-47 (dredging sludge from the settling pond) that was to improve WWTF reliability. The Discharger has continued to report effluent limitation violations in its monthly self-monitoring reports since the completion of the interim project.
10. On December 18, 2002, and January 8, 2003, the SCWA submitted drafts of a written report titled 'Financial Plan, Long-Term Capital Improvement Project'

(CIP Report) with a time schedule and financial plan for completion of the CIP. The CIP describes a phased approach to constructing the CIP that involves breaking the project into prioritized stand-alone phases that will be constructed as grant funding is received. The CIP Report identifies funding sources that are being applied for in order to pay for completion of the CIP. The CIP Report describes four project phases, but contains only one specific compliance date. The project phases described in the CIP Report are summarized in Finding 10 of CDO No. R1-2003-0020 along with a compliance time schedule for completion of the CIP. The CIP phases are dependent on the Discharger obtaining grant and loan funding.

11. The Occidental WWTF continues to experience compliance problems. It is expected that an extension to the deadlines in CDO No. R1-2001-47 would result in more compliance problems and actual and threatened violations of WDR Order No. 93-42 over the extended period. In order to reduce potential violations of WDR Order No. 93-42 over the extended period, it is necessary for the Discharger to select and complete an interim project directed at improving system reliability and compliance with WDR Order No. 93-42, within thirteen months of the date of this Order. The CIP Report identifies a potential interim project and states that other potential interim projects are being evaluated. Examples of interim projects that the Discharger could choose to implement to significantly lessen the potential for violations include, but are not limited to, 1) installation of baffles in the aeration pond to eliminate the potential for short-circuiting and improve BOD removal, and/or 2) improvements to the aeration system to increase oxygen transfer efficiency. An alternate project or projects may be proposed as long as the project(s) can be shown to significantly lessen the potential for permit violations.

The CIP Report also states that the Discharger will conduct inspections and provide advice to its commercial and industrial users to reduce the potential for influent discharges that could adversely affect the treatment process.

12. Pursuant to Section 13308 of the California Water Code, the Regional Water Board may adopt a time schedule and prescribe civil penalties that shall become due for violations of the time schedule based on the amount reasonably necessary to achieve compliance, not to include any amount intended to punish or redress previous violations and not to exceed ten thousand dollars (\$10,000) for each day in which the violation occurs.
13. Because there is a threatened or continuing violation of CDO No. R1-2003-0020, it is necessary to adopt this Time Schedule Order to establish a time schedule to achieve compliance with WDR Order No. 93-42, as well as to modify the remaining tasks of TSO No. R1-2001-48. The time schedule in this Order

contains civil penalties in amounts reasonably necessary to induce the Discharger to achieve compliance.

14. If the Discharger fails to comply with the time schedule contained in this Order, a complaint may be issued pursuant to California Water Code Section 13323(a) alleging the violation(s) of this Order and setting forth the amount of civil liability due under this Order. The amount of the civil liability may be reduced based on consideration of the specific factors in California Water Code Section 13327.
15. An evidentiary hearing on this matter was held before the Regional Water Board on March 27, 2003, in the Regional Water Board Hearing Room, 5550 Skylane Boulevard, Suite A, Santa Rosa, California. The Regional Water Board considered all evidence presented at the hearing.
16. The adoption of a time schedule order for administrative civil liability is an enforcement action to protect the environment, and is therefore exempt from the provisions of CEQA pursuant to Title 14, California Code of Regulations, Sections 15308 and 15321(a)(2).

THEREFORE, IT IS HEREBY ORDERED that:

1. The list of tasks in Time Schedule Order No. R1-2001-48 is amended to read as provided in the table below.

<u>TASK</u>	<u>COMPLIANCE DATE</u>	<u>PENALTY ASSESSMENT DATE</u>	<u>CIVIL PENALTY</u>
A. Submit for Executive Officer concurrence, a report with a plan and time schedule for implementing on interim project to improve system reliability.	September 1, 2003	September 10, 2003	\$1,000
B. Complete Phase 1 – Permitting, Agreements and Governance.	December 31, 2003	January 10, 2004	\$1,000
<u>TASK</u>	<u>COMPLIANCE DATE</u>	<u>PENALTY ASSESSMENT DATE</u>	<u>CIVIL PENALTY</u>
C. Submit semi-annual Progress	June 1 and	June 10 and	\$500 for

Reports on the status of obtaining funding to finance the CIP and the construction of the CIP.	December 1 of each year, beginning June 1, 2003	December 10 following each progress report compliance date	each late or unsubmitted report
D. Complete the interim project concurred upon by the Executive Officer.	April 30, 2004	May 10, 2004	\$1,000
E. Award Bid for Phase 2 of the CIP.	December 31, 2004	January 10, 2005	\$1,000
F. Complete Construction of All CIP Phases.	June 30, 2008	July 30, 2008	\$10,000

2. Administrative civil liability shall be imposed on the Discharger for violation of Tasks A through E in accordance with the above time schedule. If there are delays beyond the dates specified above, the discharger is liable for \$1,000 for each additional day in which the violation occurs.

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 March 27, 2003.

Susan A. Warner
Executive Officer