

California Regional Water Quality Control Board
North Coast Region

ORDER NO. R1-2006-0109
(AMENDING AND SUPPLEMENTING)
CEASE AND DESIST ORDER NO. R1-2005-0087

REQUIRING THE CITY OF FERNDALE WASTEWATER TREATMENT FACILITY TO
CEASE AND DESIST FROM DISCHARGING OR THREATENING TO DISCHARGE
EFFLUENT IN VIOLATION OF WASTE DISCHARGE REQUIREMENTS
ORDER NO. R1-2000-92
WDID No. 1B83136OHUM

Humboldt County

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

1. The City of Ferndale (hereinafter Discharger) owns and operates a municipal publicly owned treatment works (POTW) located near Ferndale, California adjacent to Francis Creek near its confluence with the Salt River, a tributary of the Eel River. The POTW provides secondary treatment and consists of a gravity collection system, seven-acre aerated oxidation pond, settling basin, chlorine contact basin, and dechlorination system. Design flow is 1.0 million gallons per day (mgd); average dry weather flow is approximately 0.32 mgd; and peak weather flows reach approximately 3.85 mgd.
2. The POTW is regulated by Waste Discharge Requirements Order No. R1-2000-92, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0022721, WDID No. 1B83136OHUM, adopted by the Regional Water Board on November 29, 2000.
3. Pursuant to provisions of the Water Quality Control Plan for the North Coast Basin (Basin Plan), **A. DISCHARGE PROHIBITION** 6 of Order No. R1-2000-92 restricts the discharge of effluent to the Eel River and its tributaries from October 1 to May 14 each year to no greater than one percent of the receiving water flow. Effluent discharge to the Eel River and its tributaries is prohibited from May 15 through September 30.
4. Francis Creek is a tributary of Salt River, and Salt River is a tributary of the Eel River. Wastewater flow volumes from the Discharger's POTW typically exceed one percent of the receiving water flow during the winter months, which is a violation of Order No. R1-2000-92.
5. The Discharger is violating or threatening to violate the following terms in Order No. R1-2000-92:

A. DISCHARGE PROHIBITIONS

2. Creation of a pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code (CWC), is prohibited. [Health and Safety Code, Section 5411]
 6. During the period of October 1 through May 14, discharges of wastewater shall not exceed one percent of the combined flows of Francis Creek and the Salt River. For purposes of this Permit, the combined flow shall be that flow of Francis Creek and Salt River measured at the confluence.
6. On May 15, 2003, the Regional Water Board adopted Cease and Desist Order No. R1-2003-0049 for violations and threatened violations of **A. DISCHARGE PROHIBITION 2 and 6** of Order No. R1-2000-92. Order No. R1-2003-0049 did not impose a connection restriction to the POTW, but established time schedules for tasks associated with development of an alternative to violations of the 100:1 discharge rate requirement in Order No. R1-2000-92. Order No. R1-2003-0049 required full compliance with Order No. R1-2000-92 by February 1, 2005. Initial tasks in Order R1-2003-0049 were completed, including submittal of a Corrective Action Plan (CAP) in December 2003 providing a detailed analysis of remaining alternatives. The CAP recommended POTW upgrade by constructing a sequencing batch reactor (SBR) system within the existing footprint of the POTW and headworks areas. However, due to funding issues, project costs, regional efforts to restore the Salt River, and community input, the Discharger did not proceed with the SBR project. The City Counsel appointed a technical review team in May 2005 to reevaluate the feasibility, costs, life cycles, land requirements, and construction issues related to various system alternatives. The Discharger requested an extension of time to comply with Order No. R1-2000-92.
 7. On October 12, 2005, the Regional Water Board adopted Order No. R1-2005-0087, which provided a new schedule and milestone tasks to achieve compliance. Order No. R1-2005-0087 imposed a restriction prohibiting new flows to the POTW unless an offset of 2:1 were provided to the satisfaction of the Executive Officer of the Regional Water Board. The Discharger completed Tasks A through E on or before the designated compliance dates.
 8. Compliance with Task A of Order No. R1-2005-0087, has resulted in notable improvement to dissolved oxygen concentrations in Francis Creek downstream of the POTW effluent discharge point. Under the current conditions, and provided that the aerators increasing dissolved oxygen concentrations in the effluent continue to be properly operated on a consistent basis, minor additions to POTW flow may not result in adverse impacts to receiving water quality or further hinder the Discharger's ability to comply with waste discharge requirements.
 9. In compliance with Task B of Order No. R1-2005-0087, the Discharger submitted an alternatives analysis and identified an upgrade of the POTW using Biolac

treatment combined with surge storage, as the official project proposed to achieve compliance with waste discharge requirements. These upgrades were to produce consistent high quality effluent, thereby supporting a request for exception to the 100:1 discharge rate requirement for wintertime effluent discharges.

10. The schedule originally proposed by the Discharger and adopted for the remaining tasks under Order No. R1-2005-0087, including acquisition of financing, is proving too ambitious. The Discharger has requested additional time to complete the remaining tasks and achieve full compliance with Order No. R1-2000-92.
11. On August 10 and September 19, 2006, the Discharger submitted written requests for an extension of time to complete remaining tasks. In addition, the Discharger requested an allowance of twenty new additional connections to the POTW system as milestone tasks are completed in order to alleviate a small portion of the financial burden the Discharger must bear to achieve compliance. The Discharger proposed changes to the Order No. R1-2005-0087 compliance schedule in order to accommodate an added task allowing for a thorough technical evaluation of the requested dilution exception for wintertime discharges to Francis Creek. The proposed schedule would also provide additional time to acquire financing, further design plans, obtain permits, and complete construction. The proposed changes would delay final compliance with Order No. R1-2005-0087 for up to thirteen months from the previous deadlines.
12. Pursuant to title 23 of the California Code of Regulations, section 2244.3, subdivision (b), prohibitions or restrictions on additional discharges to a POTW may be removed by the Regional Water Board if the Board finds that: 1) consistent compliance with waste discharge requirements can be achieved only by construction of a facility which will take a substantial period of time to complete; 2) the discharger has the capacity, authority, and financial resources to complete the corrective measures necessary to achieve compliance and is currently proceeding with such corrective measures; 3) the corrective measures necessary to achieve compliance with requirements will be placed into operation by the discharger in the shortest practicable time; 4) all practicable interim repairs and improvements to the treatment process of the discharge that can be made have been made; and 5) during the interim period of time until compliance with requirements can be fully achieved the treatment processes of the discharge will be so managed, operated, maintained, and repaired as to reduce to a minimum the violations which resulted in the imposition of the prohibitions or restriction, and such minimum violations for the interim period of time involved will not significantly impair water quality or beneficial uses.
13. The Regional Water Board finds that all of the conditions specified under finding 12 above have been or will be met subject to verification by the Executive Officer, as the Discharger completes various tasks required under this Order.
14. 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 as such is exempt from the requirements of the California Environmental Quality Act (Public Resources Code sections 21000-21177).

15. On November 29, 2006, after due notice to the Discharger 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 Cease and Desist Order No. R1-2005-0087 is amended to read:

1. The Discharger shall cease and desist from discharging and threatening to discharge waste in violation of the terms of Order No. R1-2000-92 (NPDES Permit No. CA0022721) described in Finding No. 5 above by implementing the following time schedule:

- Task A By **July 1, 2007**, submit for Executive Officer's review, a variance request to address surface water discharge rates. The variance request shall conform to all requirements identified in accordance with the Implementation Plan; North Coastal Basin contained in the Basin Plan and at a minimum shall include evaluation of the following factors:
- Identification of each constituent of concern (COC) known or reasonably thought to be present in POTW effluent;
 - Documentation of existing water quality for each COC in the receiving water upstream of POTW influence;
 - Comparison of most sensitive beneficial uses identified for the receiving water in the Basin Plan for each COC and their cumulative impacts; and
 - In light of receiving water quality and flows, conduct an evaluation of water quality and flows required in the POTW effluent to protect the beneficial uses of receiving water.
- Task B By **October 1, 2007**, submit 50% design plans and specifications for construction of the proposed project.
- Task C By **December 1, 2007**, secure funding for the proposed project. Provide the Regional Water Board with documentation regarding the funding source(s).
- Task D By **January 1, 2008**, submit final design plans for the proposed project. The final design shall be accompanied by an application for waste discharge requirements permit renewal.
- Task E By **June 1, 2008**, acquire all necessary permits, including waste discharge requirements from the Regional Water Board.

Task J By **September 1, 2009**, complete construction of the proposed project.

Task K By **November 1, 2009**, attain full compliance with waste discharge requirements by completing the implementation of long-term plans for treated effluent disposal during the wintertime season.

2. The addition of new flows of wastewater to the POTW (after October 4, 2004) from new residential, commercial, industrial, and/or governmental connections is restricted as follows 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. R1-2000-92 described in Finding No. 4 above. (California Code of Regulations, title 23 § 2244.) The following allowances and restrictions apply:

- The equivalent of 10 single-family dwellings or 4,500 gallons per day, whichever is less may be added upon completion of the variance request under Task A above to the satisfaction of the Executive Officer;
- The equivalent of 10 single-family dwellings or 4,500 gallons per day, whichever is less may be added upon attainment of appropriate project financing as required under Task C above;
- New or existing connections, whose increase of flows of wastewater are offset by a discharge reduction of wastewater by 2:1 to the collection system are not considered to be additional flows restricted by this Order through November 1, 2009. The demonstration of off-set shall be supported with technical information to the satisfaction of the Executive Officer.

3. If, in the opinion of the Executive Officer, the discharger 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, Catherine E. Kuhlman, 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 November 29, 2006.

Catherine E. Kuhlman
Executive Officer