California Regional Water Quality Control Board
North Coast Region

CEASE AND DESIST ORDER NO. R1-2010-0035
MODIFYING CEASE AND DESIST ORDER NO. R1-2006-0002

NPDES PERMIT NO. CA0025135
ID NO. 1B82046OSON

REQUIRING THE CITY OF HEALDSBURG TO CEASE AND DESIST FROM DISCHARGING OR THREATENING TO DISCHARGE EFFLUENT IN VIOLATION OF WASTE DISCHARGE REQUIREMENTS, ORDER NO. R1-2010-0034

Sonoma County

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

1. The City of Healdsburg (hereinafter Discharger) owns and operates facilities for municipal wastewater collection, treatment, reclamation and disposal serving the City of Healdsburg and located in the SE ¼ of Section 33, R9W, T9N, MDB&M and adjacent to the Russian River.

2. The City of Healdsburg Wastewater Treatment, Reclamation and Disposal Facility (Facility) is designed for an average dry weather flow rate of 1.4 million gallons per day (mgd) and maximum sustained peak wet-weather flow of 4.0 mgd. The City recently upgraded its treatment plant from a pond-based secondary treatment process to a tertiary facility that consists of influent screening, grit removal, extended aeration with biological nutrient removal (BNR), microfiltration through hollow membrane fibers (membrane bioreactor), and ultraviolet (UV) light disinfection. The tertiary, disinfected effluent is discharged to the Basalt Pond, which is physically connected to and has a substantial nexus to the Russian River and is a water of the United States. Basalt Pond is owned by Syar Industries, Inc.

3. The Facility is currently regulated by Waste Discharge Requirements (WDR) Order No. R1-2005-0084, National Pollutant Discharge Elimination System (NPDES) Permit (Permit) No. CA0025135, WDID No. 1B82046OSON, adopted by the Regional Water Board on January 17, 2008. This Permit was originally adopted by the Regional Water Board on October 6, 2004 as Order No. R1-2004-0064 which was subsequently modified on November 29, 2004 (Order No. R1-2004-0111), October 12, 2005 (Order No. R1-2005-0084), and January 17, 2008. The permit expired on October 6, 2009 and has been administratively extended because the Discharger submitted a Report of Waste Discharge for its permit renewal in a timely manner.

4. WDR Order No. R1-2010-0034 is proposed for adoption concurrently with this Cease and Desist Order. Upon adoption of Order No. R1-2010-0034, it will serve as the current NPDES Permit for this Facility beginning on August 1, 2010. The Permit includes discharge prohibitions, effluent and receiving water limitations and compliance provisions.

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5. The Regional Water Board adopted the *Water Quality Control Plan for the North Coast Region* (hereinafter Basin Plan), which designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the Basin Plan. The Basin Plan identifies present and potential beneficial uses for the Russian River, which Basalt Pond is part of

6. Pursuant to provisions of the Basin Plan, and discharge prohibitions set forth in Healdsburg's Permit, the Discharger is prohibited from discharging effluent to the Russian River during the period May 15 through September 30.

7. The Discharger is violating or threatening to violate the following terms in Order No. R1-2005-0084:

A. DISCHARGE PROHIBITIONS

7. The discharge of wastewater effluent from the WWTF to the Russian River or its tributaries is prohibited during the period May 15 through September 30 each year.

8. The Discharger is violating or threatening to violate the following terms in Order No. R1-2010-0034.

III. DISCHARGE PROHIBITIONS

J. The discharge of wastewater effluent from the WWTF to the Russian River or its tributaries, is prohibited during the period of May 15 through September 30 each year.

9. The Discharger is violating or threatening to violate, the following provisions of the Basin Plan:

4. IMPLEMENTATION PLANS –POINT SOURCE MEASURES

Under this authority and in order to achieve water quality objectives, protect present and future beneficial uses, protect public health, and prevent nuisance, the Regional Water Board declares that point source waste discharges are prohibited in the following locations:

North Coastal Basin. The Russian River and its tributaries during the period of May 15 through September 30 and during all other periods when the waste discharge flow is greater than one percent of the receiving stream's flow as set forth in NPDES permits.

10. Section 13301 of the California Water Code states "When a regional board finds that a discharge of waste is taking place, or threatening to take place, in violation of

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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 preventative action."

11. Violations of the Orders identified in Finding 3 have been the subject of preceding cease and desist orders, including Order No. R1-2004-0065 and Order No. R1-2006-0002. Tasks identified in Requirements 2 and 3 of Order No. R1-2006-0002 have been completed thereby resolving the acute toxicity violations identified in Finding 11 and BOD and suspended solids violations identified in Finding 12 of Order No. R1-2006-0002. In addition, the Discharger completed its WWTF upgrade project in May 2008 which increased the wastewater treatment capability from secondary to tertiary and added nitrification (conversion of ammonia to nitrate) and denitrification (converts nitrate to nitrogen gas for release into the atmosphere). Monitoring of effluent from the upgraded WWTF has demonstrated that the Discharger is in compliance with acute toxicity, BOD, and suspended solids effluent limitations in its previous Order, Order No. R1-2005-0084.

12. The Discharger continues to discharge all year to Basalt Pond and has not yet implemented discharge alternatives to achieve compliance with Discharge Prohibition A.7 of Order No. R1-2005-0084 or Discharge Prohibition III.J of Order No. R1-2010-0034. This year-round discharge also does not comply with the Basin Plan.

13. On April 3, 2009, the Discharger submitted a written semi-annual progress report to Regional Water Board staff describing the Discharger's progress toward ceasing its discharge to Basalt Pond during the period May 15 through September 30 of each year. The progress report describes the status of designing a reclamation system that will eventually allow the City to cease discharges to the Basalt Pond during the seasonal discharge prohibition period and other tasks that the City plans to implement, including development of a community outreach and education program for the recycled water system, reissuance of a mitigated negative declaration for the Syar reclamation project, and California Department of Public Health approval of the City's Recycled Water Engineering Report. The progress report identifies lack of funding and the impacts of the current economic downturn on the City as significant obstacles for completing the reclamation system for compliance with the seasonal discharge prohibition by the October 6, 2009 deadline required by Order No. R1-2006-0002. The progress report included a request for a five year extension of time to comply with this seasonal discharge prohibition.

14. In a letter dated April 9, 2009, Regional Water Board staff responded to the Discharger's progress report and request for time extension with a request for a detailed plan and time schedule for completion of the reclamation system and compliance with the Basin Plan seasonal discharge prohibition. The Regional Water Board letter stated that the Discharger's schedule should identify interim steps that the City will take to move toward compliance and should consider ways to phase a

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reduction of the discharge to Basalt Pond, provide as much detail as possible regarding the City's plans to seek financing for the reclamation project, and demonstrate that the City will complete the reclamation system project and cease seasonal discharges to Basalt Pond in the shortest time frame possible..

15. On June 11, 2009, the Discharger submitted a letter to Regional Water Board staff responding to the April 9, 2009 Regional Water Board letter. The letter included a plan and time schedule for completion of the reclamation system and compliance with the Basin Plan seasonal discharge prohibition. The plan and time schedule includes plans to phase construction and implementation of its reclamation system by constructing a reclamation project on the neighboring Syar property in the short-term, then securing funding to implement the rest of its reclamation system within five years.

16. The Discharger's October 9, 2009 semi-annual progress report confirmed that the Discharger continues to pursue funding for construction of the recycled water system; complete design work for the reclamation system; and work on securing California Department of Health Services (CDPH) approval of the Discharger's Title 22 Recycled Water Engineering Report.

17. On January 21, 2010, the Regional Water Board adopted Administrative Civil Liability Order (ACLO) No. R1-2010-0005 that allows the Discharger to apply a portion of mandatory minimum penalties that resulted from effluent limitation violations toward completion of a Supplemental Environmental Project (SEP). The SEP identified in the ACLO consists of preparing plans and specifications for a recycled water distribution system by July 14, 2010.

18. This Order, Order No. R1-2010-0035 modifies Order No. R1-2006-0002 to provide additional time for the Discharger to comply with the seasonal discharge prohibition that was identified in Finding 10 of Order No. R1-2006-0002. Requirement 2 of this Order replaces Requirement 1 of Order No. R1-2006-0002.

19. CDO No. R1-2006-0002 included findings that implied that violations of discharge prohibitions are subject to mandatory minimum penalties (MMPs). Those findings are not included in this CDO because violations of discharge prohibitions are not subject to MMPs, rather such violations are subject to discretionary penalties.

20. Pursuant to Water Code section 13389 and section 15321 of title 14 of the California Code of Regulations, 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 210000-21177).

21. On June 10, 2010, after due notice to the Discharger and all other interested persons, the Regional Water Board conducted a public hearing and received evidence regarding this Order.

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22. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code Section 13320 and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. To be timely, such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If you choose to request reconsideration of this Order or file a petition with the State Water Board, be advised that you must comply with the Order while your request for reconsideration and/or petition is being considered.

THEREFORE, IT IS HEREBY ORDERED PURSUANT TO WATER CODE SECTIONS 13243, 13300 and 13301, that Cease and Desist Order No. R1-2006-0002 is amended to read:

1. Cease and Desist Orders No. 97-27, R1-2004-0065, and R1-2006-0002 are rescinded except for enforcement purposes and are replaced by this Order.

2. The Discharger shall cease and desist from discharging and threatening to discharge waste to Basalt Pond between May 15 and September 30 of each year in violation of the seasonal discharge prohibition identified in the Discharger's Permit by implementing the following time schedule:

Task	Task Description	Compliance Date
A	Complete design of reclamation system and submit final design plans, specifications and engineering report for construction of the reclamation system	July 14, 2010
B	Submit revised Title 22 Recycled Water Engineering Report to California Department of Public Health and Regional Water Board.	November 1, 2010
C	Secure funding commitment	June 1, 2011
D	Award contract for construction of reclamation system	February 1, 2012
E	Complete construction of reclamation project identified in Task D	June 1, 2014
F	Submit written progress reports on compliance efforts to the Executive Officer. The progress reports shall describe progress on completion of the recycled water system, including funding status, construction	April 1 and October 1 of each year until full compliance with Discharge Prohibition

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Task	Task Description	Compliance Date
	progress, negotiations with potential recycled water users, and any problems encountered during the prior six months. Each progress report shall evaluate the potential for completing portions of the recycled water system such that some water recycling may occur prior to June 1, 2014. Regional Water Board staff may periodically present an informational update to the Regional Water Board based on the progress reports.	III.J is achieved
G	Achieve compliance with Discharge Prohibition III.J of Waste Discharge Requirements Order No. R1-2010-0034.	No later than September 30, 2014

3. If, given written justification from the Discharger, the Executive Officer determines that a delay in the implementation schedule is beyond the reasonable control of the Discharger, the Executive Officer may revise the implementation schedule as appropriate. Written justification must be received by the Executive Officer before the specific due date occurs, must describe the circumstances causing the delay, and must state when each outstanding task will be completed.

4. If the Regional Water Board Executive Officer finds that the Discharger fails to comply with the provisions of this Order, the Executive Officer may take all actions authorized by law, including referring the matter to the Attorney General for judicial enforcement or issuing a complaint for administrative civil liability pursuant to Water Code section 13350 and 13385. The Regional Water Board reserves the right to take any enforcement actions authorized by law.

<u>Certification</u>

I, Catherine Kuhlman, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Cease and Desist Order adopted by the California Regional Water Quality Control Board, North Coast Region, on June 10, 2010.

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Catherine Kuhlman
Executive Officer

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