

DRAFT TIME SCHEDULE ORDER NO. R1-2011-0103

**PROVIDING THE CITY OF SANTA ROSA
TIME TO UNDERTAKE ACTIONS TO COMPLY WITH REQUIREMENTS
PRESCRIBED IN ORDER NUMBER R1-2006-0045
(Santa Rosa Subregional Water Reclamation System)
(NPDES PERMIT NO. CA0022764)**

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

1. The City of Santa Rosa (hereafter City or Discharger) owns and operates the Santa Rosa Subregional Water Reclamation System (the "Reclamation Plant"), a publicly-owned treatment works, which currently collects, treats, recycles and/or discharges an average dry weather flow of 15 million gallons per day ("MGD") under Waste Discharge Requirements (WDRs) contained in Order No. R1-2006-0045, adopted by the Regional Water Board on September 20, 2006. Order No. R1-2006-0045 also serves as the National Pollutant Discharge Elimination System (NPDES) permit (NPDES No. CA0022764).
2. The City reuses most of its produced tertiary treated recycled water throughout the year, providing agricultural operators with recycled water for beneficial water reclamation and reuse (*i.e.*, agricultural irrigation of crops, including vineyards, orchards, animal fodder, pasture, and specialty vegetable crops), participating in urban reuse (*e.g.*, golf courses, playing fields, and landscaped areas), or providing the recycled water to the Geysers Recharge Project. These reuse projects used between 95 and 100 percent of the produced recycled water during the last four years of operation.
3. The City's WDRs/NPDES Permit allows the discharge of tertiary treated recycled water that is not reused from October 1st through May 14th of each year, in accordance with discharge restrictions set forth in the North Coast Region's Basin Plan. Discharge occurs from the City's recycled water storage ponds to the Laguna de Santa Rosa and/or Santa Rosa Creek, both tributaries to the Russian River. For the past four discharge seasons, the City has discharged a total of 71 days (13 days in the 2007/2008 discharge season, 0 days in the 2008/2009 discharge season, 9 days in the 2009/2010 discharge season, and 49 days in the 2010/2011 discharge season).
4. The Laguna de Santa Rosa is on the State Water Resources Control Board's Clean Water Act 303(d) List of Water Quality Limited Segments as impaired for nitrogen and phosphorous. A Total Maximum Daily Load (TMDL) has not yet been prepared to address the listing.
5. The City's WDRs/NPDES Permit was renewed in 2006, and includes the following effluent limitations for nitrogen and phosphorus at Provision IV.A.1.g:

The Regional Board plans to develop and adopt total maximum daily loads (TMDLs) for nitrogen and phosphorous which will specify wasteload allocations (WLAs) for point sources and load allocations (LA) for non-point sources, as appropriate. Following the adoption of these TMDLs by the Regional Water Board, this Order will be issued with final WQBELs [water quality based effluent limits] based on applicable WLAs. Alternatively, in the absence of a TMDL at the end of the compliance schedule authorized by this Order [Nov. 9, 2011], the final effluent limitation for nitrogen and phosphorous will be zero, or no net loading⁵.

Footnote 5 explains:

A 'no net loading' effluent limit may be met by: 1) reducing the effluent concentration below detectable levels through source control and/or treatment; 2) reducing loads through recycling/reclamation; and/or 3) reducing loads elsewhere in the watershed by an amount at least equal to the amount discharged (and of equivalent bioavailability) through an approved offset program.

6. On July 24, 2008, the Regional Water Board adopted the Santa Rosa Nutrient Offset Program, Resolution No. R1-2008-0061, (Nutrient Offset Program). The Nutrient Offset Program satisfied the WDRs/NPDES Permit's requirement that the "zero" or "no net loading" limitations could be complied with by reducing the loads elsewhere in the watershed by an amount at least equal to the amount discharged (and of equivalent bioavailability) through an approved offset program.
7. The Nutrient Offset Program provides the process by which the City can propose, and once approved, implement nutrient offset projects to earn nutrient reduction credits that offset annual nutrient loads discharged to the Laguna de Santa Rosa. The Nutrient Offset Program prescribes criteria for measurement and calculation of nutrient reduction credits, including a margin of safety.
8. The Nutrient Offset Program prescribes that compliance, with the "zero, or no net loading" effluent limitations for nitrogen and phosphorous, is calculated using a three-year averaging period due to the variability and unpredictability of the following factors:
 - a) Annual discharges of recycled water nutrients to the Laguna de Santa Rosa
 - b) Nutrient reduction project implementation timelines
 - c) Varying nutrient reduction values from nutrient reduction projects

The City is deemed compliant with the "zero or no net loading" limitations if the three-year average difference between actual discharge and offset reduction credits is less than or equal to zero mass units.

9. The “zero” or “no net loading” effluent limitations for nitrogen and phosphorous become effective November 9, 2011, and the first three-year average compliance determination is currently scheduled to occur in 2014, after conclusion of the 2013-2014 discharge season.
10. Since the Nutrient Offset Program was adopted in July 2008, City staff have undertaken significant good faith efforts towards developing acceptable nutrient offset projects. Notwithstanding those efforts, to date, no project has been approved by Regional Water Board Executive Officer.
11. Regional Water Board and City staff are currently working cooperatively to investigate further nutrient offset project options, including those associated with agriculture, including dairies, that could be approved by Regional Water Board. The identification, approval, and implementation of nutrient offset projects, agricultural or otherwise, will take time. Therefore, the City is unlikely to be able to timely implement nutrient offset project(s) so as to achieve compliance with the “zero, or no net loading” effluent limitations for nitrogen and phosphorous in 2014 via the Nutrient Offset Program.
12. The California Water Code Section 13300 states:

"Whenever a regional board finds that a discharge of waste is taking place or threatening to take place that violates or will violate requirements prescribed by the regional board, or the state board, or that the waste collection, treatment, or disposal facilities of a discharger are approaching capacity, the board may require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a violation of requirements."
13. Through issuance of this Time Schedule Order (TSO), the first three year-averaging period used to calculate compliance with the “zero, or no net loading” effluent limitations for nitrogen and phosphorous via the Nutrient Offset Program will begin with the 2012-2013 discharge season, extending by one year the commencement of the timeframe for determining compliance. The “zero” or “no net loading” effluent limitations for nitrogen and phosphorous will still become effective November 9, 2011, but the first compliance determination will occur in 2015, after conclusion of the 2014-2015 discharge season, using a three-year average from the 2012-2013 discharge season through the 2014-2015 discharge season.
14. The Regional Board has notified the Discharger, interested agencies and persons, of its intent to issue a Time Schedule Order in accordance with Water Code section 13167.5.
15. This enforcement action by a regulatory agency is exempt from the provisions of the California Environmental Quality Act (Public Resources, Code, Section 2100 *et*

seq.) in accordance with the California Code of Regulations, title 14, section 15321.

IT IS HEREBY ORDERED, pursuant to California Water Code section 13300:

1. The first three year-averaging period used to calculate compliance with the “zero, or no net loading” effluent limitations for nitrogen and phosphorous contained in Order No. R1-2006-0045 (or any subsequent order that replaces Order No. R1-2006-0045) via the Nutrient Offset Program set forth in Resolution No. R1-2008-0061 will begin with the 2012-2013 discharge season. This extends, by one year, the commencement of the timeframe for determining compliance described in Nutrient Offset Program.
2. The first compliance determination will occur in 2015, after conclusion of the 2014-2015 discharge season, using a three-year average from the 2012-2013 discharge season through the 2014-2015 discharge season.

All other limitations, provisions, and requirements of Order No. R1-2006-0045 and Resolution No. R1-2008-0061, not in conflict with this Order, are in full force and effect.

Certification

I, Catherine 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 <DATE>.

Catherine Kuhlman
Executive Officer