

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER R5-2013-XXXX

REQUIRING
CUTLER-OROSI JOINT POWERS WASTEWATER AUTHORITY
WASTEWATER TREATMENT FACILITY
TULARE COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER R5-2013-XXXX
(NPDES PERMIT NO. CA0081485)

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Central Valley Water Board) finds that:

1. On XX May 2013, the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order R5-2013-XXXX, prescribing waste discharge requirements for the Cutler-Orosi Joint Powers Wastewater Authority (hereafter Discharger), Wastewater Treatment Facility (hereafter Facility), Tulare County. The Facility discharges disinfected secondary treated domestic wastewater to Sand Creek.
2. WDR Order R5-2013-XXXX contains Final Effluent Limitations IV.A.1., which reads, in part, as follows:

The Discharger shall maintain compliance with the following effluent limitations at Discharge Point No. 002 (Sand Creek), with compliance measured at Monitoring Location EFF-002 as described in the Monitoring and Reporting Program:

- a. The effluent limitations in Table 6:

Table 6. Final Effluent Limitations – Discharge Point No. 002 (Sand Creek)

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Copper, Total Recoverable	µg/L	9.9	--	24	--	--

3. The effluent limitations specified in WDR Order R5-2013-XXXX for copper are based on implementation of the California Toxics Rule and are new effluent limitations, which were not prescribed in previous WDR Order No. R5-2006-0092, adopted by the Central Valley Water Board on 21 September 2006.

Need for a Time Schedule

4. In accordance with Water Code section 13385(j)(3), and based upon effluent monitoring results, the Discharger is unable to consistently comply with the new average monthly and maximum daily effluent limitations for copper. These effluent limitations are new requirements that became applicable to the discharge when WDR Order

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R5-2013-XXXX became effective, and after 1 July 2000, and for which new or modified control measures are necessary in order to comply with the new effluent limitations, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

5. On 14 February 2013, the Discharger submitted an infeasibility report and time schedule justification for a compliance schedule for copper.

Mandatory Minimum Penalties

6. California Water Code (Water Code) subsections 13385(h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties (MMPs) upon dischargers that violate certain effluent limitations. Water Code section 13385(j)(3) provides protection from mandatory minimum penalties for violations of an effluent limitation when:

...the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308, if all of the following requirements are met:

(A) The ... time schedule order is issued on or after July 1, 2000, and specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i).

(B) The regional board finds that, for one of the following reasons, the discharger is not able to consistently comply with one or more of the effluent limitations established in the waste discharge requirements applicable to the waste discharge:

(i) The effluent limitation is a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000, new or modified control measures are necessary in order to comply with the effluent limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

...

(C) (i) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation. Except as provided in clause (ii), for the purposes of this subdivision, the time schedule shall not exceed five years in length.

...

(iii) If the time schedule exceeds one year from the effective date of the order, the schedule shall include interim requirements and the dates for their achievement. The interim requirements shall include both of the following:

(I) Effluent limitations for the pollutant or pollutants of concern.

(II) Actions and milestones leading to compliance with the effluent limitation.

(D) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan pursuant to Section 13263.3.

7. This Order provides a time schedule for the Discharger to develop, submit, and implement methods of compliance, including developing and implementing pollution prevention activities, completing studies, and/or constructing necessary treatment facilities to meet new effluent limitations for copper.
8. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance with the final effluent limitations for copper exceeds one year, this Order includes interim requirements and dates for their achievement. In accordance with Water Code section 13385(j)(3)(c)(i), the time schedule does not exceed five years.
9. The compliance time schedule in this Order includes interim performance-based effluent limitations for copper. The interim effluent limitations consist of a maximum daily effluent concentration and an average monthly effluent concentration derived using sample data provided by the Discharger. In developing the performance-based interim average monthly effluent limitations, where there are 10 data points or more, sampling and laboratory variability is accounted for by establishing interim effluent limitations that are based on normally distributed data where 99.9 percent of the data points will lie within 3.3 standard deviations of the mean (*Basic Statistical Methods for Engineers and Scientists*, Kennedy and Neville, Harper and Row, 3rd Edition, January 1986). The interim maximum daily effluent limitation is established in this Order by calculating an upper prediction limit. An upper prediction limit is calculated based on past data and is used to predict a value that a specified number of future observations/samples will fall under (USEPA 530-R-93-003). The interim maximum daily effluent limitation was calculated with a confidence level of 99% and assuming one sample is collected per month for the next five years.

The table below summarizes the calculations of the interim performance-based effluent limitations for copper.

Interim Effluent Limitations Calculation Summary

Parameter	Units	MEC	Mean	Standard Deviation	Number of Samples	Interim MDEL	Interim AMEL
Copper, Total Recoverable	µg/L	85	30	28	11	180	124

10. The Discharger can maintain compliance with the interim effluent limitations included in this Order. Interim effluent limitations are established when compliance with the final effluent limitations cannot be achieved by the existing discharge. Discharge of constituents in concentrations in excess of the final effluent limitations, but in compliance with the interim effluent limitations, can significantly degrade water quality

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and adversely affect the beneficial uses of the receiving stream on a long-term basis. The interim effluent limitations, however, establish an enforceable ceiling concentration until compliance with the final effluent limitations can be achieved.

11. If an interim effluent limitation contained in this Order is exceeded, then the Discharger is subject to MMPs for that particular exceedence as it will no longer meet the exemption in Water Code section 13385(j)(3). It is the intent of the Central Valley Water Board that a violation of an interim maximum daily effluent limitation subjects the Discharger to one MMP for the day in which the sample was collected. In addition, a violation of the interim average monthly effluent limitation subjects the Discharger to only one MMP for that monthly averaging period¹.

Other Regulatory Requirements

12. 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. Water Code section 13267(b)(1) states:

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

14. Title 40 of the Code of Federal Regulations, Section 122.44(d)(1)(i) requires that National Pollutant Discharge Elimination System permit effluent limitations must control all pollutants which are or may be discharged at a level which will cause or have the reasonable potential to cause or contribute to an in-stream excursion above any State

¹ In accordance with Questions 39 and 40 of the 17 April 2001 State Water Board *SB 709 and SB 2165 Questions and Answers* document.

water quality standard, including any narrative criteria for water quality. Beneficial uses, together with their corresponding water quality objectives or promulgated water quality criteria, can be defined per federal regulations as water quality standards.

15. The Discharger owns and operates the Facility which is subject to this Order. The technical and monitoring reports required by this Order are necessary to determine compliance with the WDRs and with this Order.
16. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000, et seq.); in accordance with California Code of Regulations, title 14, section 15321, subdivision (a)(2). Issuance of this Order is also exempt from CEQA pursuant to Water Code section 13389 as it serves to implement WDR Order No. R5-2013-XXXX. (*Pacific Water Conditioning Assn., Inc. v. City Council* (1977) 73 Cal.App.3d 546, 555-556.)
17. On XX May 2013, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider a Time Schedule Order under Water Code section 13300 to establish a time schedule to achieve compliance with waste discharge requirements.

IT IS HEREBY ORDERED, pursuant to sections 13300 and 13267 of the Water Code, that:

1. The Discharger shall comply with the following time schedule to ensure compliance with the copper effluent limitations at Section IV.A.1.a. contained in WDR Order R5-2013-XXXX as described in the above Findings:

Task	Description	Date Due
1	Submit and implement a Pollution Prevention plan (PPP) ¹ pursuant to Water Code section 13263.3 for copper	<6 months after adoption>
2	Submit Water Effects Ratio (WER) Study - Work Plan and Schedule	<6 months after adoption>
3	Submit report summarizing results of WER Study and revised final effluent limitations for copper	<24 months after adoption>
4	Submit Alternative Method of Compliance Work Plan ²	<36 months after adoption>
5	Progress Reports ³	30 April and 30 October, semi-annually, until final compliance
6	Full compliance with applicable final copper effluent limitations	<5 years after adoption>

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- ¹ The PPP for copper shall be prepared in accordance with Water Code section 13263.3(d)(3). The PPP shall describe pollution prevention activities the Discharger will implement in the short-term and the long-term to reduce effluent concentrations for copper.
- ² This Work Plan is only required if the discharge cannot comply with the revised final effluent limitations for copper derived from the results of the WER Study.
- ³ The progress reports shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including studies, construction progress, evaluation of measures implemented, and recommendations for additional measures as necessary to achieve full compliance by the final date.

2. The following interim effluent limitations at Discharge Point No. 002 for copper shall be effective from **<date adopted>** to **<day before full compliance>** or when the Discharger is able to come into compliance, whichever is sooner:

Interim Effluent Limitations at Discharge Point No. 002

Parameter	Units	Maximum Daily Effluent Limitation	Average Monthly Effluent Limitation	Effective Through
Copper, Total Recoverable	µg/L	180	124	<day before full compliance>

3. For the compliance schedules required by this Order, the Discharger shall submit to the Central Valley Water Board on or before each compliance report due date, the specified document or, if appropriate, a written report detailing compliance or noncompliance with the specific schedule date and task. If noncompliance is being reported, the reasons for such noncompliance shall be stated, and shall include an estimate of the date when the Discharger will be in compliance. The Discharger shall notify the Central Valley Water Board by letter when it returns to compliance with the time schedule.

4. Any person signing a document submitted under this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

5. In accordance with California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain work plans for investigations and studies, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately

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qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall bear the professional's signature and stamp.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order or with the WDRs may result in the assessment of administrative liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350, and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Resources Control Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Resources Control Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Resources Control Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on XX May 2013.

PAMELA C. CREEDON, Executive Officer

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