

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER NO. R5-2019-0028

REQUIRING NORTH YUBA WATER DISTRICT  
FORBESTOWN WATER TREATMENT PLANT  
BUTTE COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER NO. R5-2019-0027  
(NPDES PERMIT NO. CA0084824)

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

1. On 5 April 2019 the Central Valley Water Board adopted Waste Discharge Requirements (WDRs) Order No. R5-2019-0027, NPDES Permit No. CA0084824, prescribing WDRs for the North Yuba Water District (Discharger) at the Forbestown Water Treatment Plant (Facility), Butte County.
2. WDRs Order No. R5-2019-0027 contains Final Effluent Limitations IV.A.1.a., which reads, in part, as follows:

**Table 4. Effluent Limitations**

Parameter	Units	Effluent Limitations			
		Average Monthly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Silver, Total Recoverable	µg/L	0.060	0.12	--	--
Zinc, Total Recoverable	µg/L	10	21	--	--

3. The effluent limitations specified in WDRs Order No. R5-2019-0027 for silver and zinc are based on implementation of the California Toxics Rule.

**Need for Time Schedule and Legal Basis**

4. In accordance with CWC section 13385(j)(3), the Central Valley Water Board finds that, based upon results of effluent monitoring, the Discharger is not able to consistently comply with the new effluent limitations for silver and zinc at Discharge Point 001. These limitations are based on new requirements that became applicable after the effective date of the WDRs, and after 1 July 2000, for which new or modified control measures were necessary in order to comply with the limitation, and new or modified control measures could not be designed, installed, and put into operation within 30 calendar days.
5. On 23 January 2019, the Discharger submitted a request and justification for additional time to achieve compliance with final silver and zinc effluent limitations. For compliance with the final effluent limitations for silver and zinc, the Discharger anticipates that

additional time is necessary to complete construction on the closed pipe system that will reliably convey water to the on-site storage reservoir and make operational changes at the Facility to eliminate discharge from the on-site storage reservoir.

6. The following table summarizes the effluent monitoring data obtained from 17 October 2018 to 5 December 2018 sampling events.

Parameter	Units	MEC	Mean	# of Samples	# of Non-Detects
Silver, Total Recoverable	µg/L	1.02	0.53	2	1
Zinc, Total Recoverable	µg/L	36.88	19.1	2	0

7. This Order provides a time schedule for the Discharger to develop and implement a pollution prevention plan, complete a water balance analysis and operation and maintenance specifications technical report per provisions in the WDRs, and demonstrate that the Facility can be operated to eliminate discharge from the Facility.

### **Mandatory Minimum Penalties**

8. California Water Code sections 13385(h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties (MMPs) upon dischargers that violate certain effluent limitations. California Water Code section 13385(j)(3) exempts the discharge from mandatory minimum penalties “where 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 the [specified] requirements are met.”
9. Per the requirements of California Water Code section 13385(j)(3), the Central Valley Water Board finds that:
- a. This Order specifies the actions that the Discharger is required to take in order to correct the violations that would otherwise be subject to California Water Code sections 13385(h) and (i).
  - b. The Discharger has stated that finalizing changes in the operation and maintenance of the on-site storage reservoir will be completed within the term of WDRs Order No. R5-2019-0027, which remain effective until 31 May 2024. Therefore, a timeframe of 5 years is required to meet the new final effluent limitations.
  - c. This Order establishes a time schedule to bring the waste discharge into compliance with the effluent limitations 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 limitations.

10. Compliance with this Order exempts the Discharger from mandatory minimum penalties for violations of the final effluent limitations for silver and zinc found in WDRs Order R5-2019-0027 from 1 June 2019 (the effective date of this Order) until 31 May 2024.
11. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds one year, this Order includes interim effluent limitations and interim requirements and dates for their achievement. The time schedule does not exceed 5 years.
12. The compliance time schedule in this Order includes interim performance-based effluent limitations for silver and zinc. Interim effluent limitations consist of a maximum daily effluent concentration derived using sample data provided by the Discharger demonstrating actual treatment plant performance. In developing the performance-based interim AMEL, where there are 10 data points or more and only once per month sampling is required, sampling and laboratory variability is accounted for by establishing interim effluent limitations that are based on normally distributed data where 99.9% of the data points will lie within 3.3 standard deviations (SD) of the mean (Basic Statistical Methods for Engineers and Scientists, Kennedy and Neville, Harper and Row, 3rd Edition, January 1986). When at least 80 percent of the data points are reported as non-detect (ND) values, or if there are less than 10 data points available, the interim AMEL is based on 3.11 times the maximum observed effluent concentration (MEC) when once per month sampling is required. Additionally, if either of these procedures result in an interim AMEL less than the MEC, the MEC is sometimes established as the interim AMEL. The interim MDEL is calculated by applying statistical methods presented in the Technical Support Document for Water Quality-based Toxics Control (March 1991; EPA/505/2-90-001) to determine the maximum expected effluent concentration at a 99% confidence level and 99% probability basis. The following table summarizes the calculation of the interim effluent limitations for copper:

Parameter	Units	# Effluent Samples	Mean	MEC	Interim MDEL	Interim AMEL
Silver, Total Recoverable	µg/L	2	0.53	1.02	7.55	3.17
Zinc, Total Recoverable	µg/L	2	19.1	36.9	273	115

13. The Central Valley Water Board finds that 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 Facility. 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 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 limitation can be achieved.
14. If an interim effluent limitation contained in this Order is exceeded, then the Discharger is subject to MMPs for that particular exceedance as it will no longer meet the exemption in CWC 13385(j)(3). It is the intent of the Board that a violation of an interim monthly effluent limitation subjects the Discharger to only one MMP for that monthly averaging

period. In addition, a violation of an interim daily maximum effluent limitation subjects the Discharger to one MMP for the day in which the sample was collected.

### **Other Regulatory Requirements**

15. California Water Code (CWC) 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.”*
16. CWC section 13267 states, in part: *“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.”*
17. The Discharger owns and operates the water treatment 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.
18. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (“CEQA”) pursuant to Water Code section 13389, since the adoption or modification of a NPDES permit for an existing source is statutorily exempt and this Order only serves to implement a NPDES permit. (Pacific Water Conditioning Ass’n, Inc. v. City Council of City of Riverside (1977) 73 Cal.App.3d 546, 555-556.).

### **IT IS HEREBY ORDERED THAT:**

1. Pursuant to California Water Code Sections 13300 and 13267, the Discharger shall comply with the following time schedule to submit reports and ensure completion of the tasks described in Finding 5 above:

Task	Compliance Date
Submit and implement a Pollution Prevention Plan (PPP) pursuant to CWC section 13263.3 for silver and zinc.	30 September 2019
Complete Water Balance Analysis and Operation and Maintenance Specifications report Workplan per provision VI.C.2.b of Order R5-2019-0027	30 September 2019
Complete Final Water Balance Analysis and Operation and Maintenance Specifications technical report per provision VI.C.2.b of Order R5-2019-0027	31 May 2023
Achieve compliance with final effluent limitations for silver and zinc	31 May 2024
Submit annual progress reports documenting the steps taken to comply with this Order, describing the completion of tasks, evaluation of the effectiveness of the implemented measures of the PPP, and an assessment of whether additional measures are necessary to meet the final compliance date.	1 April 2019, 1 April 2020, 1 April 2021, 1 April 2022, 1 April 2023

- Discharge from Discharge Point 001 shall not exceed the following interim effluent limitations. The interim effluent limitations for silver and zinc are effective upon adoption of this Order and shall apply in lieu of the corresponding final effluent limitations in WDRs Order R5-2019-0027. The Discharger shall comply with the following interim effluent limitations until 31 May 2024.

Parameter	Units	Interim MDEL	Interim AMEL
Silver, Total Recoverable	µg/L	7.55	3.17
Zinc, Total Recoverable	µg/L	273	115

- 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.”*

- 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, 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 qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain the professional's signature and/or stamp of the seal.

5. 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 Civil 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.
  
6. Any person aggrieved by this action of the Central Valley Water Board may petition the State Water 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 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 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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality)

or will be provided upon request.

I, PATRICK PULUPA, 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 5 April 2019. This Order shall become effective upon the effective date of WDRs Order 2019-0027 on 1 June 2019.

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PATRICK PULUPA, Executive Officer

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Date